

Waived English Learners: The Understudied Intersection of English Learner and Special Education Status

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The number of U.S. school-age English learners (ELs) is rapidly growing and currently exceeds 5 million (U.S. Department of Education, 2021). By definition, ELs: (1) come from homes where a language other than English is spoken and (2) are in the process of English language development while learning grade-level content in English (Every Student Succeeds Act, 2015). To identify students eligible for English language support services, states typically administer a home language survey (HLS) upon school entry as a first step. If a legal guardian indicates that the child uses a language other than English to communicate at home, an English language proficiency (ELP) screener is administered to determine the child's eligibility for English language support services (U.S. Department of Education, 2016). Although the scope of HLS items may vary across states, schools use HLS to identify children from homes where a language other than or in addition to English is used (Salerno & Andrei, 2021). If the child does not pass a specified threshold on the ELP screener, legal guardians are notified with: (1) available language support programs, (2) their right to waive English language support services, (3) their right to remove their child from EL services, and (4) English language service exit criteria (Office of Elementary & Secondary Education, n.d.). Under the federal requirements of the Every Student Succeeds Act (ESSA; 2015), all states are required to annually assess and monitor ELs' ELP—regardless of English language service waiver status—until they are reclassified as English-proficient.

While the EL population is by no means new in the U.S., certain areas of the country—commonly known as new destination states (e.g., South Carolina, Tennessee, Virginia)—have

been experiencing a rapid, unprecedented growth of ELs (Park et al., 2018). Indeed, the education of ELs is no longer solely relevant to traditional EL-serving states (e.g., California, Florida, Texas). To effectively support ELs' academic achievement, schools need internal capacity (e.g., certified teachers, evidence-based EL programs) to provide appropriate services to their ELs. Unfortunately, many districts nationwide continue to experience shortage of teachers qualified to work with ELs (National Academies of Sciences, Engineering, and Medicine, 2017), and we might expect that ELs have even less access to educators familiar with and prepared to meet their unique language and academic needs in new destination states. Therefore, we focused on ELs in Tennessee—a new destination state in the American South—where the overall EL population grew by 45% from 2011 to 2017 (Tennessee Department of Education [TDOE], 2018). This emerging educational context raises many questions about the educational affordances for ELs and their academic achievement. Existing findings do offer insight into ELs' language and reading skills, but we must be cautious in assuming that previous findings from traditional EL-serving states hold true for ELs in new destination states. Relative to ELs in traditional EL-serving states, ELs in new destination states may be much less likely to receive bilingual instructional support (Gándara & Mordechay, 2017) or access necessary resources for their developing English proficiency (Potochnick, 2014).

Waiver of English Language Support Services

When students are identified as ELs, their parents have the legal right to accept or decline (i.e., waive) English language support services (Office of English Language Acquisition [OELA], 2020). Under the federal guidelines (ESSA, §1112(3), 2015), local education agencies are required to notify parents of their right to waive EL services for their children. This EL subgroup is also known as Waived ELs. In Tennessee, the significant growth of not only ELs in

general but also those who are waiving EL services (i.e., 146% increase from 2010-2011 to 2020-2021 school years) warrants research on ELs' academic outcomes by waiver status. Although research on ELs has significantly grown in the past decade, empirical work documenting Waived ELs' education is limited (for exceptions, see Flores et al., 2012; Flores & Drake, 2014; Mavrogordato & Harris, 2017). Studies and reports on ELs have typically focused on students *receiving* EL services and rarely disaggregate the EL-identified population by receipt of language services (e.g., Betts et al., 2020; Johnson, 2022). Additionally, within the limited literature on Waived ELs, most studies focus on ELs' transition to college and shows mixed findings on the link between waiver status and outcomes: studies report that compared to EL peers receiving English language services, high school Waived ELs were more likely to perform poorly on advanced college-preparation courses (Flores & Park, 2011) or less likely to need additional coursework to be ready for college-level coursework (Flores & Drake, 2014). Nonetheless, Waived EL research remains limited at the elementary and middle grades, when important developments in oral language and literacy skills occur (Halle et al., 2012; Kieffer, 2011) and high-stakes educational decisions (e.g., special education identification) are made. If the field is to gain a more nuanced understanding of the EL population as a whole, there is an urgent need to also attend to Waived ELs. Additionally, research on Waived ELs offers the unique opportunity to examine how the provision of English language services relates to ELs' educational outcomes.

Understudied Intersection of EL and Special Education Status

ELs constitute 12% of students with disabilities as of school year 2021-2022, up from 9% in 2012-2013 (Office of Special Education Programs, 2022). Although the intersection of EL and special education (SPED) status remains under-researched, studies continue to underscore the

complexity and importance of accurate identification of ELs for SPED services (Artiles & Ortiz, 2002; Mancilla-Martinez et al., 2022; Sullivan, 2011; Yamasaki & Luk, 2018). Of the 13 federally recognized SPED disability categories (IDEA, § 300.8(c)), ELs tend to be most represented in two language-based disability types: specific learning disabilities (SLD; includes conditions such as reading difficulties and dyslexia (IDEA, § 300.8(c)(10)) and speech-language impairment (SLI; includes conditions such as a communication disorder (IDEA, § 300.8(c)(11)). SLD and SLI are relevant to students' reading achievement (Gilmour et al., 2019) and, unsurprisingly, they are the two most common disability categories among ELs (OELA, 2020). In fact, SLD and SLI have been regarded as subjective disability categories, due to the reliance on educators' judgment versus physical indicators or medical diagnoses (Donovan & Cross, 2002), which includes language-based and other learning disabilities that do not fit into other official categories of SPED (Counts et al., 2018; Hibel & Jasper, 2012).

Relatedly, disentangling language *difference* (i.e., language development patterns that differ from those of English monolinguals but expected in bilingually developing children) from language *disabilities* (i.e., special needs that require clinical, explicit, and systematic support) remains a complex task for educators and educational researchers (Stutzman & Lowenhaupt, 2022). In fact, empirical evidence on ELs' representation in SPED is mixed, with studies reporting over-representation (Sullivan, 2011), under-representation (Morgan et al., 2012, 2015), or even a shifting pattern from underrepresentation in the primary grades to overrepresentation in the secondary grades (Hibel & Jasper, 2012; Samson & Lesaux, 2009; Umansky et al., 2017). Therefore, persistent findings on disproportionality in SPED placement of ELs—one of the fast-growing and vulnerable student groups in the U.S.—signal an issue of educational equity for this student population.

Until recently, studies on ELs' representation in SPED have mostly relied on cross-sectional analyses (e.g., Mancilla-Martinez et al., 2022; Morgan et al., 2015; Samson & Lesaux, 2008), and longitudinal evidence on the timing and likelihood of ELs' SPED placement has been limited (for exceptions, see Linn & Hemmer, 2011; Umansky et al., 2017). To be clear, both cross-sectional and longitudinal insights are equally important to inform efforts to make appropriate identification and placement decisions for ELs. However, longitudinal exploration of their representation in SPED services (e.g., timing and likelihood, predictors of ELs' SPED placement)—especially for SLD and SLI that tend to be most prevalent among ELs—can inform ongoing efforts to better assess, identify, and support ELs dually-identified with disabilities.

Competing Needs: EL Services and SPED Services

Research at the intersection of EL status and SPED status suggests that the two programs are often perceived as competing needs, where the double demands of serving ELs with disabilities often lead prioritization of SPED services over English language services (Kangas, 2014; Schissel & Kangas, 2018; Stutzman & Lowenhaupt, 2022). This is partially attributed to the lack of accountability in EL education compared to SPED services (e.g., lack of legal documents equivalent to an Individualized Educational Plan (IEP) that places legal accountability) that portray language services as a more quasi-legal, negotiable service (Kangas, 2014, 2018). More recently, in a study on teacher and administrator perceptions of ELs with disabilities, Stutzman and Lowenhaupt (2022) documented that students' SPED needs were prioritized over English language services due to the “unspoken hierarchy” (p. 11) in which SPED services took precedence. However, by federal law, dually-identified ELs are entitled to both English language support services *and* SPED services (U.S. Department of Education, 2015), and researchers have continued to push the importance of dispelling the misconception

that SPED and English language services are mutually exclusive or that SPED services matter more (Carnock & Silva, 2019; Lopes-Murphy, 2020).

Purpose of the Current Study

Although Waived ELs have emerged as a fast-growing EL subgroup in Tennessee since 2010, their SPED representation has rarely been studied in the field. To our knowledge, this is the first study to longitudinally explore the likelihood and timing of SPED placement by English language support service waiver status (“waiver status”). The findings from this study will contribute to a more nuanced understanding of ELs in SPED services and how waiver status relates to SPED representation. Based on the emerging evidence pointing to a hierarchy of educational services among ELs with disabilities (Kangas, 2018; Schissel & Kangas, 2018; Stutzman & Lowenhaupt, 2022), we hypothesize that Waived ELs (i.e., ELs whose parents opted them out of English language support services) may show higher likelihoods of being placed in SPED services compared to their EL peers who receive direct English language services. To address the growing, yet limited research at the intersection of EL and SPED status, we ask: How does the likelihood and timing of placement into overall SPED, SLD, and SLI differ between ever-Waived ELs and never-Waived ELs?

Method

Data Source and Procedures

The analytic data for this study comes from a confidential state-level dataset made available through our partnership with the Tennessee Education Research Alliance. Given that the option to waive English language support services was first introduced in the 2010-2011 academic year in Tennessee, our state-level, longitudinal analytic sample spans from 2010-2011 to 2020-2021. Specifically, we only include students who entered the Tennessee public school

system in kindergarten between 2010-2011 and 2020-2021 (for details, see Table S1 in the online supplementary material). The dataset for this study was organized using an intact-cohort analysis approach similar to previous longitudinal EL studies (Clotfelter et al., 2009; Flores & Drake, 2014), where the dataset only includes students who entered the school system in kindergarten and stayed until eighth grade (i.e., “intact” sample of students who have data from all nine timepoints from kindergarten to eighth grade). This approach provides a focused sample with a maximum number of datapoints for the groups of interest. This is particularly helpful for studying Waived ELs, given that the Waived EL population starts small since its introduction in 2010-2011 but gradually increases over time.

Within each cohort, ELs were organized into two categories of waiver status: (1) ever-Waived ELs and (2) never-Waived ELs. Ever-Waived ELs include ELs who *ever* waived English language support services, whether consistently until being determined English-proficient or even for one school year between kindergarten and eighth grade. Never-waived ELs include ELs who *never* waived English language support services and received English language development instruction (i.e., ELs who were *only* Current ELs, or ELs who received direct English language support). The conceptualization of ELs’ status as “ever” waived status expands the growing focus in the literature on the Ever-EL framework (Umansky et al., 2017), which recognizes that ELs are a dynamic group of students who enter and leave English language support services at different timepoints. Given that this dynamic nature of the EL population may lead to misleading conclusions when comparing them to their peers especially in longitudinal studies (Umansky & Reardon, 2014), the Ever-EL framework organizes all ELs (e.g., those who used to receive language services, those actively receiving language services) in the same group. Under the Ever-EL framework, ever-ELs are compared to their never-EL peers (i.e., students

who come from non-English language backgrounds but did not qualify for English language support services). Although the Ever-EL framework does not attend to Waived ELs, our preliminary review of waiver status showed that like EL status, waiver status was also a dynamic variable, where ELs switched between waiving and receiving EL services. In fact, the Tennessee State Board of Education clearly states that parents have the legal right to waive direct English language support services at any time during the school year (Tennessee State Board of Education, 2021). Therefore, we use the ever-Waived framework to examine the Waived EL population, to explore how the timing and likelihood of SPED, SLD, and SLI placement relate to their parents' decision to waive English language support services.

After categorizing the sample into either the ever-Waived EL group or the never-Waived EL group, we combined three cohorts of students who stayed in the Tennessee public school system from kindergarten to eighth grade (i.e., those who started kindergarten in 2010, 2011, and 2012) to maximize sample sizes for each subgroup. In total, our state-level analytic sample includes 14,612 students with data from nine timepoints, resulting in 131,508 observations in total. By language status, the dataset includes 946 ever-Waived ELs and 13,666 never-Waived ELs.

Variables

The following student-level covariates were included as they have been hypothesized in the literature to contribute to SPED placement: female, Hispanic, lower socioeconomic status (SES), Hispanic background, and chronic absenteeism. Students' gender was included (1 = female, 0 = male), given association between gender and SPED placement rates (Coutinho & Oswald, 2005). Lower SES is associated with compromised academic achievement (e.g., Duncan & Hoynes, 2021) and SPED placement (Schifter et al., 2019). Thus, household SES was

included as a covariate, based on students' eligibility for free or reduced price lunch (1 = eligible, 0 = not eligible) for academic years 2010-2017 and economically-disadvantaged status for 2017-2021 (1 = economically-disadvantaged, 0 = not economically-disadvantaged). To note, the SES indicator changed in 2017 from free or reduced-price lunch eligibility to economically-disadvantaged status in Tennessee, where students were automatically classified as economically-disadvantaged based on their participation in public nutrition assistance programs, instead of self-reports of household income (TDOE, 2021). Additionally, SES varies by race or ethnicity—with Hispanic students representing the largest share of students living in poverty (Guzman et al., 2021)—and there is a mixed landscape on Hispanic students' SPED representation (NCLD, 2020). We thus used Hispanic status to indicate their racial and ethnic status (1 = Hispanic, 0 = non-Hispanic). We selected Hispanic status given that ELs predominantly come from Spanish-speaking homes (i.e., 76% of the U.S. EL population (NCES, 2022) and 76% of the Tennessee EL population (Migration Policy Institute, 2018). The non-Hispanic group in the sample include Asian, Black, Native American/Alaskan Native, Native Hawaiian/Pacific Islander, and White subgroups. Lastly, we included chronic absenteeism status (1 = chronic absenteeism, 0 = no chronic absenteeism), as defined by the TDOE (i.e., missing more than 10% of instructional days in each school year). We chose chronic absenteeism given its importance during SPED identification processes (e.g., for SLD; Sprick et al., 2020) and that higher attendance (i.e., 0 = no chronic absenteeism) relates to lower likelihoods of SPED identification (Sullivan & Bal, 2013).

Discrete-Time Hazard Modeling

Discrete-time hazard models are useful for answering longitudinal questions about whether and when an event (i.e., SPED placement) occurs across a period of discrete timepoints

(i.e., grade). We investigated the likelihood and timing of SPED designation—and specifically in SLD and SLI—between ever-Waived ELs and never-Waived ELs using discrete-time hazard modeling (Singer & Willett, 2003). We also account for the previously noted student-level covariates that have been hypothesized in the literature to contribute to SPED placement and explore to what extent, if any, the likelihood of SPED placement—beyond student-level characteristics—is accounted for by waiver status. In doing so, we use the never-Waived ELs as the reference group to examine the extent to which waiver status accounts for ELs' SPED placement likelihood and timing.

Further, this method allows researchers to examine the probability of event occurrence over time without making assumptions about students who were "censored," meaning students who never experienced the outcome of interest. In our analytic sample, censoring occurs when ELs never receive SPED services by eighth grade. The start time of the analysis is kindergarten year, which corresponds to ELs' first year in Tennessee public schools. To note, the dataset for this study is nested, where time points are nested within each student (i.e., nine timepoints per student), and students are nested within their schools. As such, we also include school fixed effects to adjust for systematic differences between students across different schools. This decision was made to achieve the main goal of this paper: to explore the extent to which waiver status—adjusting for student-level factors found to predict SPED placement rates—explains any differences in ELs' representation in overall SPED, SLD, and SLI in Tennessee.

The visual representations of the discrete-time hazard modeling results will be presented as plots of hazard functions and cumulative hazard functions, which are the two common methods for describing hazard analysis findings. The hazard function represents the likelihood that a student will be placed into SPED services at a particular grade level, given that the student

has not already received SPED services. In other words, hazard functions present the timing at which ELs, by waiver status, are most at-risk for SPED placement. The *cumulative* hazard functions—or commonly referred to as cumulative probabilities—slightly differ from hazard functions, in that these plots show the likelihood of SPED placement *up to* a certain grade level.

Results

Descriptive Findings

Table 1 presents mean student-level descriptive statistics by waiver status. In total, female students made up half of the total EL sample and, on average, 5% of all ELs showed chronic absenteeism, with minor variations by waiver status. In contrast, students' household SES and Hispanic status noticeably differed by waiver status. Overall, 75% of the total EL sample had lower-SES backgrounds, with never-Waived EL showing a similar proportion (73%). In contrast, ever-Waived ELs included a smaller portion of students from lower-SES backgrounds (59%). Similarly, Hispanic background was predominant overall, but ever-Waived ELs showed a slightly lower percentage (65%) compared to never-Waived ELs (82%).

[Insert Table 1 here]

Likelihood and Timing of SPED Placement by Waiver Status

In this section, we present the discrete-time hazard modeling results for overall SPED placement, followed by results for SLD and SLI categories. As a reminder, the overall SPED placement likelihood reflects the likelihood of placement into any of the SPED disability categories recorded in the Tennessee database.

Overall SPED Status

Table 2 presents the distribution of SPED placement occurrences at each grade level (see column SPED). The “Beginning Total” column shows the number of students at the beginning of

each grade level, and the “Received SPED Status” column indicates the number of students who received SPED status at that grade level. As a reminder, no student was censored until reaching eighth grade (i.e., indicated by consecutive zeros under “Censored” column until eighth grade) because the dataset only includes students who stayed from kindergarten to eighth grade. Table 2 shows that the majority of SPED placement occurred in kindergarten (11.3% for ever-Waived ELs and 8.8% for never-Waived ELs), indicating that students either entered the Tennessee public school system with already-known SPED needs or were placed into SPED services in the first year of their schooling. As shown under the “Censored” column, approximately 75.6% of Ever-Waived ELs (715 out of 946 ever-Waived ELs) and 80.5% of never-Waived ELs (11,000 out of 13,666 never-Waived ELs) in our sample did not receive SPED status by eighth grade.

[Insert Table 2 here]

In Table 3, we report the hazard modeling results for SPED placement likelihood (see column SPED). For ease of interpretation, the estimates are presented as odds ratios (ORs). An OR of 1.0 indicates that the group of interest (i.e., ever-Waived ELs), when compared to the reference group (i.e., never-Waived ELs), has about the same probability of experiencing an event (i.e., SPED placement) at each timepoint. An OR greater than 1.0, however, indicates that a group of interest is more likely to experience an event compared to the reference group. Finally, an OR less than 1.0 indicates that a group of interest is less likely to experience an event compared to the reference group.

[Insert Table 3 here]

Table 3 shows that, at each timepoint, ever-Waived ELs are 25% more likely than otherwise similar never-Waived ELs to be placed into SPED services (as indicated by statistically significant, covariate-adjusted OR of 1.25). By other student-level factors, female

students are 40% (OR of 0.60) less likely than their male peers to be placed into SPED services; students from lower-SES households were less 21% less likely (OR of 0.79) than their peers from higher-SES households; and chronically absent students were 50% more likely (OR of 1.50) to receive SPED status compared to their peers who attended school for more than 90% of the school year. Hispanic status was the only predictor of SPED placement that was not significant (non-significant OR of 1.07), suggesting that the odds of SPED placement were not statistically different between Hispanic ELs and non-Hispanic ELs.

Figure 1 displays the covariate-adjusted hazards functions (top panel) and cumulative hazards functions (bottom panel) of SPED placement by waiver status. For the specific values of hazard and cumulative hazard values at each grade, see Table S2 in the online supplementary material. As a reminder, hazard functions represent the conditional probability that a student will be placed into SPED services at each time point, assuming that the student has not already been placed into SPED services. Hence, hazard functions allow us to examine not only the likelihood but also the timing at which SPED placement is most likely to occur (i.e., the highest point on the hazard function plot indicates the time of highest risk), by language status.

[Insert Figure 1 here]

Figure 1 reveals that ELs' likelihood of SPED placement, adjusting for other student-level factors, starts elevated in the kindergarten year for both waiver status groups. Most notably, ever-Waived ELs were slightly more likely to have SPED status compared to their never-Waived EL peers in kindergarten. However, both ever-Waived ELs and never-Waived ELs followed a similar pattern over time. Similar hazard function plots for both ever-Waived ELs and never-Waived ELs between kindergarten and second grade (i.e., 0.031-0.034 (3.1%-3.4%) and 0.024-0.026 (2.4%-2.6%), respectively) suggest that, regardless of waiver status, SPED placement

likelihoods are elevated but stable in the primary grades. After a slight peak in third grade, both groups show a noticeable dip in likelihoods starting in fourth grade. This trend indicates that the likelihood of SPED placement—for ELs who have not been previously identified for SPED services—declines as they progress towards middle school. This decline continues into middle grades with even more noticeable drop in sixth grade. Additionally, the gap between ever-Waived ELs and never-Waived ELs almost overlap starting in sixth grade towards eighth grade.

The bottom panel of Figure 1 presents the cumulative likelihood of SPED placement (see Table S2 for specific values of cumulative hazard functions). As a reminder, cumulative hazard—or commonly referred to as cumulative probability—indicates the likelihood that a student will experience an event (i.e., SPED placement) *by* each time point (versus *at* each time point). These values can be easily interpreted as follows: if we were to follow 100 ever-Waived ELs who entered the Tennessee public school system in kindergarten, the group’s cumulative probability of 0.034 (or approximately 3%) by the end of their first school year (i.e., end of kindergarten) would mean that approximately three ever-Waived ELs have been placed into SPED services by that time point. Likewise, the cumulative probability of 0.095 (or approximately 10%) by the end of second grade, for example, indicates that after two years since school entry, approximately 10 ever-Waived ELs—including the original three ever-Waived ELs (hence “cumulative”)—will have been placed into SPED. The covariate-adjusted cumulative probabilities show that ever-Waived ELs have an approximately 18% likelihood of being identified for SPED services by the end of eighth grade (cumulative probability of 0.178). This is slightly higher than 14% cumulative probability (cumulative probability of 0.138) for never-Waived ELs. These results are by no means intended to imply causal relation between waiver status on SPED placement. Rather, they simply suggest that from kindergarten to the end of

middle school, ELs whose parents waived English language support services at any point had a higher cumulative likelihood of receiving SPED services.

SLD and SLI

In addition to overall SPED placement, we conducted discrete-time hazard analyses for SLD and SLI, which are the top two disability categories for which the majority of ELs with disabilities are classified (OELA, 2020; WIDA, 2017). Table 3 presents the distribution of placement occurrences for SLD and SLI by waiver status (see columns SLD and SLI, respectively). The frequencies noticeably differ between SLD and SLI. The majority of SLD placement for both ever-Waived ELs and never-Waived ELs occur between second and fourth grades (2.1%-2.8% and 1.1%-1.5%, respectively). In contrast, the majority of SLI placement for ever-Waived ELs and never-Waived ELs were concentrated in primary grades, specifically in kindergarten (5.5% and 3.7%, respectively). In other words, while SLD placement appears to occur mostly in later elementary grades, SLI placement occurs most frequently at school entry, suggesting that students may be entering schools already diagnosed with SLI.

Next, we present the discrete-time hazard analysis results for both SLD and SLI in Table 3, presented as ORs (see columns SLD and SLI). Most notably, ever-Waived ELs showed greater odds of SLD placement compared to SLI (covariate-adjusted ORs of 1.64 versus 1.33), where they were 64% more likely to have SLD status and 33% more likely to have SLI status at any time point compared to their never-Waived EL peers. ORs for SLD and SLI placement based on students' gender and chronic absenteeism were comparable to findings for overall SPED placement. That is, female students were significantly less likely than their male peers to receive either SLD or SLI placement. Chronic absenteeism did significantly predict higher odds of SLD placement (33% as indicated by OR of 1.33) but not SLI. In contrast to the findings for overall

SPED placement, being Hispanic emerged as a significant and positive predictor of both SLD and SLI status (60% and 39%, respectively). However, lower SES was no longer a significant predictor for odds of SLD and SLI classification.

Based on the findings shown in Table 3, the top two panels of Figure 2 plots the covariate-adjusted hazard functions for SLD and SLI over time by language status (see Tables S3 and S4 in the online supplementary material for specific values). Ever-Waived ELs were consistently more likely to be placed into SLD or SLI services than never-Waived ELs, as shown by the ever-Waived EL line that is consistently above that of never-Waived ELs. Additionally, as indicated by the highest points, or peaks, the highest likelihood of SLD placement is in third grade and the highest likelihood of SLI placement occurs in kindergarten (i.e., at school entry) for both groups. The shape of the SLD hazard plots for both waiver groups show that the likelihood of SLD placement increases towards third grade, peaks in third grade, and decreases over time, with the gap in likelihoods narrowing between ever-Waived ELs and never-Waived ELs. In contrast, the likelihood of SLI placement steadily declines over time starting in kindergarten, indicating that regardless of waiver status, ELs generally start kindergarten already having been identified with SLI or are identified with SLI soon after starting school.

[Insert Figure 2 here]

The bottom two panels in Figure 2 presents the cumulative probabilities of SLD and SLI placement by waiver status (see Tables S3 and S4 in the online supplementary material for specific values). Results show that, after nine years in the Tennessee public school system since kindergarten, ever-Waived ELs had a 10.6% and 9.5% probability of being identified with SLD and SLI, respectively. Never-Waived ELs had a 6.9% and 7.3% probability of receiving SLD and SLI status, respectively. Similar to the cumulative probability for overall SPED placement, ever-

Waived ELs consistently showed higher cumulative probabilities for both SLD and SLI. Additionally, as expected based on the hazard function peak in third grade for SLD and in kindergarten for SLI for both waiver groups, Figure 2 (see bottom left panel) shows a steep increase in the cumulative hazard plots at third grade for SLD and at kindergarten for SLI. Overall, both waiver groups gradually became less likely to be identified with SLD and SLI towards the end of elementary school and throughout middle school, as indicated by the plateauing of cumulative probabilities over time.

Discussion

This study builds on the growing literature on ELs' representation in SPED services (e.g., Artiles & Ortiz, 2002; Hibel & Jasper, 2012; Mancilla-Martinez et al., 2022; Morgan et al., 2015; Samson & Lesaux, 2009; Skiba et al., 2016; Sullivan & Bal, 2013; Umansky et al., 2017; Yamasaki & Luk, 2018) and offers insight into an understudied EL subgroup: Waived ELs. To our knowledge, this is the first study to examine how Waived ELs are represented in SPED services overall and specifically in language-based disability categories of SLD and SLI.

Ever-Waived ELs Overrepresented in SPED, SLD, and SLI

Ever-Waived ELs' covariate-adjusted odds of SPED, SLD, and SLI placement indicated that they were consistently more likely than their never-Waived EL peers to experience the three outcomes. Although not much is known about ever-Waived ELs' representation in SPED in the field, their overrepresentation in SPED relative to their similarly situated never-Waived ELs suggests that the parental decision to waive English language support services may be related to their child's need for SPED services to an extent, especially in SLD (64% more likely) followed by SLI (33% more likely). Indeed, Zhao and Maina (2015) also discovered that ELs whose parents declined English language services in Maryland included a substantial proportion of

Waived ELs (36.7%) in SPED. Additionally, ever-waived ELs' consistently higher likelihoods of SPED, SLD, and SLI placement compared to their never-waived EL peers also contribute to the growing conversation in the field about the competing nature of English language support and SPED services (Kangas, 2014, 2018; Lopes-Murphy, 2020; Schissel & Kangas, 2018; Stutzman & Lowenhaupt, 2022). The goal of this study was not anchored on parents' decision to waive English language support services for their children was due to SPED eligibility; however, the distinct trends in which ever-Waived ELs consistently showed greater odds of SPED, SLD, and SLI placement signals that waiver status could be related to ELs' need for SPED services, at the cost of English language support. That is, it may be that the hierarchy of services may be involved (i.e., SPED prioritized over English language support services; Kangas, 2018; Schissel & Kangas, 2018; Stutzman & Lowenhaupt, 2022). In other words, there may be misguided perceptions that ELs need to choose *either* English language support services *or* SPED services, but not both. If so, this raises serious concerns about whether ELs' need for both language and disability services are being overlooked or addressed much later than their English-proficient or native English speaker peers with similar learning disabilities.

Similar Trends between Ever-Waived ELs and Never-Waived ELs

Both ever-Waived ELs and never-Waived ELs in our sample reached peak likelihood of SPED and SLD placement at the start of upper elementary years (i.e., third grade, immediately after primary years (K-2)) and the likelihoods declined overtime, toward middle grades. In other words, there appears to be a window for overall SPED and SLD placement that closes before sixth grade, in that ELs who are not placed into SPED or SLD services by the end of elementary school become much less likely to experience it in middle school. This SLD placement pattern aligns with national trends, where SLD placement tends to mostly occur around second and

fourth grades (Umansky et al., 2017). In fact, this trend could be explained by how SLD is defined: “a disorder in one or more of the basic psychological processes involved in understanding or in using *language*, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell [emphasis added]” (Sec. 300.8(c)(10) of IDEA). Studies find that students with reading-based difficulties and signs of low academic achievement tend to be referred to SLD placement, especially in upper elementary grades when academic demands increase and underachievement becomes more difficult to address (Butler et al., 2010; Flynn et al., 2012). In Massachusetts, Yamasaki and Luk (2018) found that ELs (referred to as emerging bilinguals) showed a lower rate of SLD placement in early grades (third grade) but higher rates in later grades (fourth and fifth grades). Similarly, in an undisclosed new destination state, Umansky et al. (2017) found that ELs who entered school in kindergarten were most likely to be placed into SPED around fourth and fifth grade. Most notably, the likelihood of SLD placement for ELs remained lower than that of never-ELs between kindergarten and third grade, but soon outpaced never-ELs’ likelihood for SLD placement at fourth grade and remained elevated into middle school (Umansky et al., 2017). Likewise, studies on SLD representation of Hispanic students—which is the predominant background of ELs in our study—also reported a gradual increase in SLD placement likelihood from lower to upper elementary grades, at which point the likelihood declines (e.g., fifth grade; Morgan et al., 2015) or remains elevated through middle school (Cruz & Firestone, 2022).

SLI placement trends, however, differed from those of overall SPED and SLD. The likelihood of SLI placement already started at its peak in kindergarten and gradually declined; in other words, ever-Waived ELs and never-Waived ELs were most likely to have SLI status at school entry. This trend is consistent with longitudinal research on representation of minority

learners by disability category (Cruz & Firestone, 2022; Morgan et al., 2015). That is, in contrast to SLD where the highest likelihoods are in third and fourth grades (see Figure 2, top left panel), the peak window of SLI placement appears to be in primary grades (i.e., kindergarten to second grade), after which the likelihood of being newly identified for SLI continues to drop. Although SLI is also a language-related category like SLD, the early placement rates may be attributable to the fact that SLI placement involves more clinical elements (e.g., impaired articulation, stuttering, or voice impairment) that tend to be more visible earlier on, compared to reading comprehension difficulties—associated with SLD—that may not be as noticeable until later grades when reading demands increase.

Although we do not know if the elevated SLD placement likelihoods indicates delayed placement, the peak at the start of upper elementary grades suggests that for SLD, students may be particularly susceptible to the “wait-and-see” phenomenon that is often attributed to increased proportion of ELs in SPED services in later elementary grades (Limbos & Geva, 2001; Samson & Lesaux, 2009). That is, teachers may be hesitant to refer ELs for SLD placement in the early elementary years (K-2) under the assumption that ELs need more time to develop ELP before attributing academic underachievement to SLD. In fact, English language support services are sometimes viewed as alternatives to SPED services in early grades, which relates to disproportionate representation of ELs in later grades (Hibel & Jasper, 2012). Although our exploratory study was not designed to identify whether wait-and-see approach or delayed SPED placement occurs, the findings confirm the complicated intersection of EL and SPED status.

Implications for Practice and Policy

This study revealed variability in SPED, SLD, and SLI status by English language support service waiver status. Given this, districts and local education agencies may benefit from

reviewing the policies and practices related to parents' waiver declaration and systematically document the extent to which institutional factors (e.g., district or school culture and resources related to parent involvement and decision-making) influence this choice. Based on growing research suggesting a hierarchy of services in school settings where SPED services trump English language support (Kangas, 2018) and how this culture of SPED prioritization often begins at the district-level and filters down to classroom practices (Stutzman & Lowenhaupt, 2022), evaluating if and to what extent this perception exists in schools would be informative. Relatedly, it is possible that parents who are already aware of their child's need for SPED services may be opting out of English language services when their child is identified as an EL. Additionally, given that the "ever-Waived" status in this study includes ELs who may have received English language support services in one year but later declined language services, it is also possible that, ELs may have been receiving EL services for a certain period of time before waiving language services to receive SPED services that they needed from the beginning.

Our findings raise important questions about whether parents are declining English language support services for the sake of SPED services. If this is the case, policy-level efforts to allocate resources to build capacity across districts, schools, and teachers to not only have qualified SPED and EL teachers prepared to serve ELs with disabilities but also ensure that they have appropriate resources and space to collaborate to make consequential educational decisions for ELs will be imperative (Kangas, 2018; Stutzman & Lowenhaupt, 2022). We recognize that school administrators and educators want to be judicious with the time they have with their students. As such, district-level efforts and systematic investments for dually-identified students are much needed, such as more EL-related content requirements for pre-service teacher training and SPED teacher credentialing (Umansky et al., 2017), professional development opportunities

to strengthen teachers' asset-driven, research-based understanding of ELs, and school-level support for interdisciplinary teams and opportunities in which educators can collaboratively evaluate data and evidence centered on ELs and ELs with disabilities.

Limitations and Future Directions

This exploratory study has several limitations that future research could address. Despite the novel attention to longitudinal trends of SPED, SLD, and SLI representation by waiver status, we did not examine how the trends might vary by school-level or district-level factors. ELs' representation in SPED and specific disability categories can vary based on educational contexts (Barrio, 2017; Umansky et al., 2017), such as local policies and referral practices, proportion of certified EL teachers or trained bilingual school personnel (e.g., school psychologists, speech language pathologists, special education teachers), and the size of the district-level ELs population. Therefore, in-depth studies accounting for school or district variability related to identifying and supporting dually-identified ELs would be valuable for better understanding the contributors to ELs' representation in SPED.

Another limitation relates to how the analytic dataset was organized. Based on the English language background indicator in the state database, ELs were categorized into either ever-Waived ELs or never-Waived ELs. In particular, the ever-Waived EL group not only included ELs who were *only* Waived ELs (i.e., never received English language services), but also included students who were identified as Current ELs in one year but as Waived ELs in another year. Therefore, although this exploratory study offers preliminary insight into the ever-Waived EL group broadly, future research should compare how the shift(s) in waiver status relates to representation in SPED services (i.e., are ELs who switched from Current EL to Waived EL status more likely to be in SPED, compared to those who switched from Waived EL

to Current EL status? Does the frequency of waiver status changes relate to SPED service receipt?). Second, the dataset only included students who entered the school system in kindergarten. Future research should explore variability in SPED placement trends based on the timing of later school entry (e.g., does school entry in third grade versus sixth grade differentially relate to waiver status and/or SPED status?). Further, the majority of the ELs in our sample were Hispanic. It is true that the majority of ELs come from Spanish-speaking homes in the U.S. (OELA, 2019). Nonetheless, Spanish is not the predominant language spoken by ELs in all states. In fact, top languages spoken by ELs (and thus ethnic backgrounds) could vary across schools and districts even within the same state. Therefore, more research is needed in states, districts, and schools that: (1) have large EL population from other home language backgrounds (e.g., Arabic, Chinese), (2) offer formal bilingual programs in schools (e.g., Delaware, Utah), and (3) offer the option to waive English language support services. Additionally, future research should consider ELs' language proficiency in both English *and* their home language to explore the relation among SPED status and waiver status and any variability by language proficiency.

Although limited, studies have reported parents' concerns about potential prejudice and stigma associated with the label as an EL or a student with disabilities (Kabuto, 2020; Zuckerman et al., 2014). However, evidence on *how* and *why* parents waive English language support services is limited. Hence, future research should explore the perspectives of parents who waive English language support services, specifically whether their decision to waive English language services is influenced by their child's need for SPED. Relatedly, studies should examine how SES relates to parents' decision to waive English language support services. In our sample, we observed a noticeable difference in the percentage of low-SES backgrounds between ever-Waived ELs (58.47%) and never-Waived ELs (72.46%). A slightly larger proportion of ELs

who were *not* from lower-SES households tended to have parents who declined English language support services for their child (i.e., ever-Waived ELs) compared to those who did not decline services (i.e., never-Waived ELs). Given that parents in low-SES households tend to be less familiar with the inner workings of schools and knowledge about the choices available to them to navigate educational programs for their children (Yettick et al., 2008), it may be possible that household SES may be associated with ELs' waiver status. Currently, there is limited research and documentation about Waived ELs in U.S. schools and even less is known about the parental decision to waive English language support services. More research is warranted, not only about Waived ELs but also at the intersection of waiver status and SPED status—by disability type and across states and districts (e.g., in traditional EL-serving states vs. new destination states).

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