

# ESSA Title I EL Requirements for All Title I Funded Districts

## National Title I Association 2018 Conference

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# Welcome!



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# Obligations to Provide Educational Services for ELs



What are the legal requirements regarding providing educational services to English learner (EL) students?

## Legal requirements for EL programs

- Title VI of the Civil Rights Act of 1964 (and related case law like *Lau* and *Castañeda*) prohibits discrimination against ELs based on language and national origin. The Civil Rights Act is specific to recipients of federal funding.
- The Equal Education Opportunity Act (EEOA) requires States and districts to take “appropriate action to overcome language barriers that impede equal participation by students in instructional programs” (20 U.S.C. § 1703(f)). The EEOA is not specific to recipients of federal funds.
- Both Title I and Title III of ESSA also have requirements related to providing services to ELs. NOTE: Civil Rights and EEOA required EL services cannot be paid for with Title I or Title III funds

## Office for Civil Rights and Department of Justice Guidance

- On January 7, 2015 the U.S. Department of Education's (USED) Office for Civil Rights (OCR) and the Department of Justice's (DOJ) Civil Rights Division issued joint guidance on ELs and Limited English Proficient (LEP) parents via a 40 page guidance document attached to a Dear Colleague Letter (DCL) (<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf>).
- This is a significant guidance document that lays out the legal obligations that States and districts have to serve ELs and includes the identification of 10 common civil rights issues associated with educating ELs and engaging the parents of ELs.

# Components of a Civil Rights required 'core' EL program

- There are two major components for EL programs that are required under Civil Rights legislation. A Civil Rights required 'core' EL program must provide English learners with services that help them:
  - Attain English proficiency, and
  - Access academic content (acquire content knowledge)

## Components of a Civil Rights required 'core' EL program

- The document: 'The Provision of an Equal Education Opportunity to Limited-English Proficient Students'

(<http://www2.ed.gov/about/offices/list/ocr/eeolep/index.html> )

includes, among other things, five points related to procedures that school districts should use to ensure that their programs are serving EL students effectively.

## OCR – Serving ELs effectively - five points



- Identify students who need assistance;
- Develop a program which, in the view of experts in the field, has a reasonable chance for success;
- Ensure that necessary staff, curricular materials, and facilities are in place and used properly;
- Develop appropriate evaluation standards for measuring the progress of students, including program exit criteria; and
- Assess the success of the program and modify it where needed.



# Changes made by the Every Student Succeeds Act



## ESSA EL Requirements, What's Changed From NCLB?

# General, Overall Changes



- A couple things you will notice about ESSA is that there are some consistent wording changes.
- Two of the most significant are:
  - The change from using Limited English Proficient (LEP) to using English Learner (EL); and
  - The switch in Title I and other ESSA Titles from using “scientifically research-based” to using “effective” or “evidence-based”.
- This switch to ‘effective’ and ‘evidence-based’ is probably the most significant change. The switch to evidence-based actually is one that helps schools and district significantly. The switch to effective requires the development of criteria to determine effectiveness.

# English Language Proficiency (ELP) Standards

- Under NCLB, adoption of English language proficiency (ELP) standards was required under Title III.
- Under the ESSA, it is no longer required under Title III; it is now required under Title I, section 1111(b)(1)(F).
- The requirement for the State's ELP standards to be aligned with the State's academic standards (content standards) is still present, and it is also now part of Title I, Section 1111(b)(1)(F)(iii).
- Title I funded districts could see the impact of the shift in where ELP standards are required in the form of state for federal monitoring.

# English Language Proficiency Assessment



- Under NCLB, ELP assessment was required in both Title I and Title III. In Title III it was required for all students receiving Title III services and in Title I it was required for all ELs.
- This was confusing because students receiving Title III services are a subset of all ELs, so it seemed like a requirement to do the same thing for this group of students twice.
- Under ESSA, ELP assessment is still required in Title I for all ELs (Section 1111(b)(2)(G)), but there are no separate requirements to test the ELP of Title III served students. All ELs includes all Title III served students.

# Content Assessment Exemption for Newly Arrived ELs

- Under NCLB, ELs that had been in US schools for less than one year could be exempt from the language arts portion of the content test as long as they participated in the ELP assessment.
- Under ESSA, there are now two options for exemptions for recently arrived ELs (Section 1111(b)(3)(A)). Recently arrived is defined as enrolled in a school a state or DC for less than 12 months.
- The first is similar to what was in place under NCLB, ELs in US schools for less than one year may be exempt from one administration of the reading or language arts assessment and other test results are excluded from accountability.

## Content Assessment Exemption for Newly Arrived ELs

- The second exemption option for recently arrived ELs takes a three year approach that requires the EL to take the reading/language arts and math assessments.
- In the first year, recently arrived ELs results would be excluded from the State's accountability system.
- In the second year, only a measure of growth, but not proficiency would be included; and
- In the third year, a measure of proficiency would also be included.
- A State may choose either option. A State may choose both options if it has a uniform statewide procedure for determining how to apply the exemption.

# Accountability for English Learners



- Under NCLB, accountability for ELs was under Title III and called Annual Measurable Achievement Objectives (AMAOs). AMAO 3, accountability for content test performance, was a measurement that was duplicated from Title I (AYP for the EL subgroup).
- Under ESSA, accountability for English Learners is moved under Title I, Section 1111(b)(4)(A)(ii). There are no EL accountability requirements in Title III and Title III improvement status for districts no longer exists.
- Under ESSA Title I, States are required to develop long-term goals with interim measures for ELs, not only for proficiency on content assessments, but also for *“increases in the percentage of [ELs] making progress in achieving English language proficiency”*.

# Accountability for English Learners

- The shift of accountability for ELs progress toward English proficiency from Title III to Title I is hugely significant for Title I districts.
- Title I districts that do not or have not receive Title III funds are now going to be held accountable for this measure for the first time.
- If a Title I district's Title I staff have little or no experience working with ELs, they will either need to get the training to develop the needed skills, hire new staff that have those skills, or collaborate with other staff within the district that have experience working with ELs.



# Title I Accountability Subgroup for ELs



- Under NCLB, former ELs (ELs who attained English proficiency and are no longer receiving EL services) could be included in the EL subgroup for accountability purposes for two years.
- Under ESSA, former ELs may be included in the EL subgroup for accountability purposes for four years.
- It is important to note that this is allowable, but not required, see Title I, Section 1111(b)(3)(B).
- An examination of ESSA state plans show that most states chose the new 4 year option. However, two states stayed with two years and 9 states chose not to include former ELs in the EL subgroup at all.

## ESSA Accountability Measures – AMD

- Title I accountability determinations under NCLB were called Adequate Yearly Progress or AYP.
- Under ESSA, accountability determinations under Title I, Section 1111(c)(4)(C) are called Annual Meaningful Differentiation or AMD.
- AMD includes separate accountability indicators for ELs as well as the requirement to include differentiation for underperforming subgroups.
- This means that a school may be identified for Targeted Support and Improvement (one of the two school improvement categories) based on the EL subgroup's ELP performance only.

## ESSA Accountability Measures – n-size



- With the start of ESSA and the need for ESSA state plans that define a State's accountability system, many states are adjusting the n-size used to determine if accountability determinations will be made.
- N-size is the number of students needed in a subgroup to make a valid and reliable accountability determination while not disclosing personally identifiable information.
- The n-size chosen and how it is applied has huge implications in determining which schools will be 'exempt' from EL accountability determinations.

## ESSA Accountability Measures – Grade levels

- One significant change is that accountability for ELs has moved from the district level to the school level and is now only made in the grade levels tested on the annual content test.
- Under NCLB, Title III AMAO determinations were based on the ELP assessments of all ELs in all grade levels and they were a district measure. There were no school level AMAO determinations.
- Under ESSA, accountability determinations for ELP are now made at the school level and only in the tested grades (3-8, and once in high school).

# Report Cards



- State and local report cards include the reporting of information on the State required academic assessment disaggregated by each subgroup.
- Also required to be reported on report cards is information on the number and percent of ELs achieving English proficiency (Section 1111(h)(1)(C)(iv)).
- Report cards must also include information on the progress made toward the long-term and interim goals, and so reporting of both progress toward and achievement of ELP is required.

# Parental Notification and Engagement of Parents of ELs

- Under NCLB, parent notification for identification for and placement in EL programs was required under Title III (Section 3302).
- Under ESSA, it is no longer included under Title III, but is required under Title I, Section 1112(e)(3)(A) for LEAs that use Title I or Title III funds to provide EL programs.
- The EL parent outreach section is also included as a requirement under Title I, Section 1112(e)(3)(C).
- The ESSA emphasizes meetings with parents much more strongly than NCLB. The section of NCLB that addressed holding meetings to respond to parent recommendations was titled “Receipt of Recommendations” under NCLB, but under ESSA it is titled “Regular Meetings” and is required for LEAs that use Title I or Title III funds to provide EL programs.

## Obligations to Provide Educational Services for ELs



What are the Title I requirements regarding providing educational services to English learner (EL) students?

# Title I EL requirements – ELP Standards and Assessments

- *In Title I, Section 1111(b)(1)&(2) there are requirements for adopting English language proficiency (ELP) standards and ELP assessments.*
- ELP standards must be aligned to academic standards and the ELP assessment must be aligned to the ELP standards.
- *As mentioned earlier, this was previously required under NCLB in Title III.*
- **Implications:** Federal Title III monitoring under NCLB probed the use of the ELP standards in the classroom and issued findings when there was no evidence that ELP standards informed ELP instruction. Title I monitoring of EL services will likely now include this component.



# Title I EL requirements – Annual Content & ELP Assessments

- All ELs must be tested annually on the ESSA required annual content test.
- ESSA Title I, Section 1111(b)(2)(B)(vii)(III) requires that appropriate accommodations be provided for ELs taking the annual content assessment.
- Providing the annual content assessment in languages other than English is also allowable.
- NOTE: All ELs must also be tested annually for English proficiency. This means all ELs in all grades, not just the grades tested for the annual content test.

# Title I EL Requirements – Parent Notification

- *ESSA Title I, Section 1112(e)(3)(A) requires that the parents of students identified as EL be notified that their student has been identified for participation or is participating in the district's EL program.*
- Civil Rights laws require communication with parents, including notification of EL status and available EL programs, however, the ESSA reference above is specific to EL programs funded by Title I or Title III.

# Title I EL requirements – Parent and Family Engagement

- Title I, Section 1116 addresses the requirements for districts and schools to develop a Title I Parent and Family Engagement Policy and other parent and family engagement activities.
- This policy is intended to be inclusive of all students.
- In addition to this, Title I has some specific requirements regarding the parents of ELs.
- Title I, Section 1112(e)(3)(C) requires that districts that receive Title I funds “implement an effective means of outreach to parents of English learners”.

# Title I EL requirements – Parent and Family Engagement

- The outreach must inform parents of ELs how they can:
  - (I) be involved in the education of their children;
  - and
  - (II) be active participants in assisting their children to—
    - (aa) attain English proficiency;
    - (bb) achieve at high levels within a well-rounded education; and
    - (cc) meet the challenging State academic standards expected of all students.

# Title I EL requirements – Parent and Family Engagement

- Title I, Section 1112(e)(3)(C) goes on to require holding and sending notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from parents of ELs assisted by Title I or Title III.
- Note that regular meetings means more than just an annual parent meeting.

# Inclusion of ELs in Title I Programs / Services



- English Learners are automatically included in the population of Title I eligible students in Title I schools that operate a schoolwide Title I program.
- This is because all students in a schoolwide school are considered Title I students.
- English Learners in schools that operate a targeted assistance program are also eligible for Title I services based on the same criteria as other children.

## Title I Coordination requirements

- ESSA Title I, Section 1112(a)(1)(B) indicates that schools districts may receive a Title I grant for any fiscal year only if they have an approved plan that is, as appropriate, “coordinated with other programs under this Act” and other laws.
- Title I, Section 1112(c)(4) requires that districts include an assurance in their ESSA plan that the district will coordinate and integrate services provided by Title I with other education services at the district or school level. Among the other services, services for ELs are specifically called out in this section.

## Title I Coordination requirements

- The Council of Chief State School Officers (CCSSO) issued a paper titled “Major Provisions of Every Student Succeeds Act (ESSA) Related to the Education of English Learners”.
- In two places that paper says, *“The new inclusion of a performance indicator on ELP under Title I, and the deletion of accountability requirements under Title III . . . , may well have implications for how SEAs should organize their staffs who deal with Title I and Title III issues”* and *“there is more EL focus in Title I. Therefore, SEAs might consider how to increase capacity in their Title I staff for addressing the new EL policies and/or increasing coordination and collaboration between their Title I and Title III staff.”*
- Title I / Title III Collaboration eBook:  
<http://www.transact.com/essa-transition-handbook>



## ESSA State Plans



**What aspects of services for ELs must be included in ESSA State Plans?**

## ESSA State Plans – Assurances

- The assurances document that all states are required to submit doesn't cover specific assurances found in each program, but rather is an overarching set based on the assurances found in ESSA, Section 8304.
- Section 8304 Assurances cover each program for which a State submits an application/plan. This includes Title I, Part A; Title I, Part C; Title I, Part D; Title II, Part A; Title III, Part A; Title IV, Part A; Title IV, Part B; Title V, Part B; and Title VII, Subpart B of McKinney-Vento.
- In addition, there are several other assurances that aren't covered in Section 8304 that are included in an "Other Assurances" section.

## ESSA State Plans – Assurances with EL Implications

- The assurance document doesn't address any of the program specific assurances found in ESSA, but the overarching assurances cover their required implementation.
- The first Section 8304 assurance requires that “Each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications.”
- Another is enforcing obligations found in the law and correcting deficiencies in program operations that are identified through audits, monitoring, or evaluation.
- Since Title I is one of those programs, these assurances apply to the EL requirements found in Title I.

# ESSA State Plans – Annual Content Assessment

- *Accommodations for ELs taking the State’s annual content tests are still required, with the ESSA citation being Title I, Section 1111(b)(2)(B)(vii)(III).*
- *Annual content tests in a language other than English are also still allowed (for 3 years, up to 5), with the ESSA citation being Title I, Section 1111(b)(2)(B)(ix).*
- In their ESSA State Plans, states must identify the languages present in the state to a significant extent using a definition created by the state and describe how they will develop assessments in languages designated as present to a significant extent if assessments are currently not available.

## ESSA State Plans – Accountability and SSI



- Point 4 under Title I is the largest section in the State Plan template. It addresses the Statewide Accountability System and School Support and Improvement Activities.
- A description of each subgroup is required in ESSA plans. This includes a description of various aspects of the EL subgroup.
- *One of the things addressed here is whether the SEA will include former ELs in the EL subgroup for accountability for up to four years.*

The original template had the requirement that the SEA must have statewide uniform procedures for including former ELs in the EL subgroup that:

- *Must apply to all former ELs;*
- *Must apply for the same period of time (1 to 4 years); and*
- *Must include all former ELs in the count of students used in calculating this indicator.*

## ESSA State Plans – Content test EL exemption

- *The exemption for participation in the English/Language Arts assessment and accountability determinations for recently arrived ELs is also included here, but as a check box option asking the SEA to choose one of the two exemption options, or both.*
- *The two options were discussed on an earlier slide.*
- An examination of submitted ESSA State Plans shows that about half of the states chose option one and about half chose option two (3 year phase in). Only a couple states chose to try to use both.

# ESSA State Plans – Title I Long Term Goals



- SEAs must establish long-term goals and measures of interim progress in three areas:
  1. Academic Achievement
  2. Graduation Rates
  3. English Language Proficiency
- Measurements of interim progress must be included in an appendix.

# ESSA State Plans – Title I Long Term Goals



## Improved Academic Achievement

- Goals for improvement in academic achievement based on proficiency on the annual State content assessment must be established for all students and separately for each subgroup.
- Goals should have the same timelines and take into account the improvement necessary to close achievement gaps.
- English Learners is one of the subgroups.



# ESSA State Plans – Title I Long Term Goals



## **Four-Year Adjusted Cohort Graduation Rate (same for extended year graduation rates)**

- Goals for improvement in graduation rates must be established for all students and separately for each subgroup.
- Goals should have the same timelines and take into account the improvement necessary to close graduation rate gaps.
- English Learners is one of the subgroups.

# ESSA State Plans – Title I Long Term Goals



## English Language Proficiency State-Level ELP Goals

The SEA must establish long-term goals and measures of interim progress for increases in the percentage of ELs making progress toward ELP.

- Progress toward goals are measured by the State’s ELP assessment; and
- The State-determined timeline for ELs to achieve ELP must be included.

# ESSA State Plans – Title I Accountability Indicators



Accountability systems must include at least four indicators (measures), but five are described (graduation rates are used in high school while the other academic indicator is typically used in elementary and middle schools). The five are:

- *Academic Achievement;*
- *Other Academic Indicator (typically growth);*
- *Graduation Rate;*
- *Progress in Achieving ELP; and*
- *School Quality or Student Success.*

# ESSA State Plans – Progress in Achieving ELP Indicator



- SEAs must include measures of progress in achieving ELP as part of their statewide accountability system.
- The State's definition of ELP must be included here and it must be measured by the State's ELP assessment.
- The use of additional criteria in the definition of attainment of ELP is not addressed.

# ESSA State Plans – Title I Annual Meaningful Differentiation

- *Annual Meaningful Differentiation (AMD) is the new AYP.* AMD is based on the accountability indicators and must be done for all students and each subgroup of students.
- This means that AMD calculations must be made separately for the EL subgroup.

# ESSA State Plans – School Support and Improvement



## School Improvement

- Identification of schools are made using the AMD calculations to determine if schools fall into one of the two school improvement categories. Those categories are **Comprehensive Support and Improvement** and **Targeted Support and Improvement**.
- Targeted Support and Improvement schools are those schools with ‘consistently underperforming’ subgroups of students.
- *Since the EL subgroup is one of these subgroups, it means that a school may be identified for Targeted Support and Improvement based solely on the academic or ELP performance of the EL subgroup.*

## ESSA State Plans – School Support and Improvement

- The identification of schools for improvement based on a measure of English language proficiency is new to Title I.
- Under NCLB, districts (not schools) could be identified for improvement based on the EL subgroup performance on content assessments, but not based on ELP.
- Under NCLB, Title III accountability provisions include identifying districts for improvement, but there was no funding available under Title III for implementing improvement plans.
- Thus, under ESSA, it is now possible to fund activities to help improve the performance of ELs in the area of ELP with school improvement funds.

# ESSA Title I Statutory Citations for EL Requirements

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- Adoption of ELP Standards – Section 1111(b)(1)(F)
- EL Accommodations for content tests – Section 1111(b)(2)(B)(vii)(III)
- Content tests in other languages – Section 1111(b)(2)(B)(ix)
- ELP Assessment required – Section 1111(b)(2)(G)
- Assessment exemption for recently arrived ELs – Section 1111(b)(3)(A)
- EL Subgroup (includes 4 year option for former ELs – Section 1111(b)(3)(B)
- Accountability goals for ELs – Section 1111(c)(4)(A)(ii)
- Accountability Indicator fro ELs – Section 1111(c)(4)(B)(iv)
- EL reporting in State and Local Report Cards – Section 1111(h)(1)(C)(iv)
- Title I Coordination with other EL programs – Section Sec 1112(c)(4)
- ELs eligible for Title I Targeted Assistance services – Section 1115(c)(2)(A)



## Links to other ESSA and EL resources



ESSA State Plan Submissions:

<https://www2.ed.gov/admins/lead/account/stateplan17/statesubmission.html>

ESSA State Plan Assurances and State Plan Template:

<https://www2.ed.gov/admins/lead/account/stateplan17/plans.html>

January 7, 2015 Dear Colleague Letter: English Learner Students and Limited English Proficient Parents; and accompanying factsheets:

<https://www.justice.gov/crt/guidance-ensure-equal-opportunities-english-learner-students>

English Learner Toolkit:

<https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/index.html>

Office for Civil Rights “The Provision of an Equal Education Opportunity to Limited-English Proficient Students”:

<https://www2.ed.gov/about/offices/list/ocr/eeolep/index.html>

# Questions

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