



**ENGLISH LEARNERS IN THE ESEA,
AS AMENDED BY THE ESSA**

NATIONAL TITLE I CONFERENCE
FEBRUARY 2017 | LONG BEACH, CALIFORNIA

AGENDA

English Learners (ELs) in the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA):

- Title I, Part A and Title III, Part A
- ELs Across the Nation
- Assessments for ELs
- Services for ELs
- Resources for ELs
- Questions

SPEAKERS

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English Learners Across the Nation



ENGLISH LEARNERS ACROSS THE NATION

94%

Percentage of all ELs
who attend LEAs
receiving Title III, Part A
funds

70%

Percentage of ELs
served under
Title I, Part A

4.8 million

Number of ELs
nationwide

9%

Percentage of overall
student population

>1 – 25+%

Percentage of ELs
in States

Source: 2014-2015 Consolidated State Performance Report (<https://eddataexpress.ed.gov>)



ENGLISH LEARNERS ACROSS THE NATION

The ESEA mentions several types of ELs, including:

- ELs who are also students with disabilities.
- Recently arrived ELs – an EL who has been enrolled in schools in the U.S. for less than 12 months (34 C.F.R. § 200.6(k)(2)).
- Former ELs – reporting is required for **four** years after exiting from a language instruction educational program (LIEP).

The ESEA, as amended by the ESSA, will be referred to as the amended ESEA throughout the presentation.



ENGLISH LEARNERS WHO ARE ALSO STUDENTS WITH DISABILITIES

- 9.2 percent of students with disabilities were ELs in school year 2013-2014 (U.S. Department of Education, National Center for Educational Statistics).
- Students classified as ELs with disabilities are most frequently classified as having specific learning disabilities or speech/language impairments (from data on students served under IDEA Part B in SY 2013-2014).

ENGLISH LEARNERS WHO ARE ALSO STUDENTS WITH DISABILITIES

- Under the Individuals with Disabilities Education Act (IDEA), a student may not be determined to be a student with a disability if the determinant factor is the student's limited English proficiency (which is now status as an "English learner" under the amended ESEA), and if the student does not otherwise meet the IDEA's definition of a "child with a disability" (20 U.S.C. 1414(b)(4) and (5); 34 C.F.R. § 300.306(b)(1)(iii) and (2)).
- Under the IDEA, a child cannot be determined eligible for special education services if the determinant factor for such determination is:
 - lack of appropriate instruction in reading;
 - lack of appropriate instruction in mathematics; or
 - limited English proficiency.



PURPOSE OF TITLE III, PART A

ESSA SECTION 3102

- To help ensure that English learners, including immigrant children and youth, attain English language proficiency and meet the same standards that all children are expected to meet.



PURPOSE OF TITLE I, PART A

ESSA SECTION 1001

- To provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.





Assessments for English Learners

KEY PROVISIONS FOR ENGLISH LEARNERS

IN THE EVERY STUDENT SUCCEEDS ACT

The Amended ESEA

- Title III, Part A
- Title I, Part A

Final Regulations for Title I, Part A Assessments

- 34 C.F.R. § 200.5 and 200.6

Non-Regulatory Guidance for Title III (September 23, 2016)

- Language Instruction Educational Programs
- Educators of ELs
- Parent, Family, and Community Engagement
- Early Learning
- Immigrant Subgrant
- Reporting and Data Collection
- Long-Term ELs, Former ELs, and ELs with Disabilities



ASSESSMENTS FOR ENGLISH LEARNERS

ENGLISH LANGUAGE PROFICIENCY ASSESSMENTS

- States must administer a single statewide English language proficiency (ELP) assessment to all ELs in grades K-12 (ESEA section 1111(b)(2)(G), 34 C.F.R. §§ 200.5(a)(2) and 200.6(h))
- The State ELP assessment must:
 - Be aligned with ELP standards (ESEA section 1111(b)(2)(G), (b)(1)(F)).
 - Be uniform, valid, and reliable (34 C.F.R. § 200.6(h)(1)).
 - Provide coherent and timely information about each student's attainment of the State ELP standards to parents (34 C.F.R. § 200.6(h)(2)).
 - Include students with disabilities (section 612(a)(16)(A) of the IDEA on assessments).

For additional information, see Section B of Title III, Part A non-regulatory guidance:
www2.ed.gov/policy/elsec/leg/essa/essatitleiiiiguidenglishlearners92016.pdf



ASSESSMENTS FOR ENGLISH LEARNERS

ENGLISH LEARNERS WHO ARE STUDENTS WITH DISABILITIES

States have a number of responsibilities for how assessments are administered. States must:

- Provide appropriate accommodations that are necessary to measure a student's English language proficiency (34 C.F.R. § 200.6(h)(4)).
- Provide for an alternate ELP assessment for each EL who is also a student with the most significant cognitive disabilities who cannot participate in the State ELP assessment even with appropriate accommodations (34 C.F.R. § 200.6(h)(5)).
- Ensure that teachers and other appropriate staff receive necessary training on how to administer assessments and how to make use of appropriate accommodations for all students with disabilities (34 C.F.R. § 200.6(b)(2)(ii)).



ASSESSMENTS FOR ENGLISH LEARNERS

ENGLISH LEARNERS WHO ARE STUDENTS WITH DISABILITIES

- Where a determination has been made that an EL has a disability that precludes assessment of the student in one or more domains of the ELP assessment (listening, reading, speaking, and writing) such that there are no appropriate accommodations for the affected domain(s), a State **must** assess the student's English language proficiency based on the **remaining domains** in which it is possible to assess the student (34 C.F.R. § 200.6(h)(4)(ii)).

*Such determination must be made on an individualized basis by the student's IEP team, 504 team, or for students covered under Title II of the Americans with Disabilities Act by the team or individual designated by the LEA to make those decisions.



ASSESSMENTS FOR ENGLISH LEARNERS

READING/LANGUAGE ARTS & MATHEMATICS

- States must develop appropriate accommodations for ELs; disseminate information and resources about such accommodations to, at a minimum, LEAs, schools, and parents; and promote the use of those appropriate accommodations to ensure that all ELs are able to participate in academic instruction and assessments (ESEA section 1111(b)(2)(B)(vii), 34 C.F.R. § 200.6(f)(1)(i)).



ASSESSMENTS FOR ENGLISH LEARNERS

READING/LANGUAGE ARTS & MATHEMATICS

- States must assess, using assessments written in English, the achievement of an EL in meeting the State's reading/language arts challenging State academic standards if the student has attended schools for three or more consecutive years and, on a case-by-case basis, an additional two years (ESEA section 1111(b)(2)(B)(ix), 34 C.F.R. § 200.6(g)).
- State assessments in math and science can be in the native language: “assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until [they] have achieved English language proficiency...” (ESEA section 1111(b)(2)(B)(vii)).



ASSESSMENTS FOR ENGLISH LEARNERS:

ACADEMIC ASSESSMENTS

- States must make every effort to develop native language assessments for all languages present “to a significant extent” in a State, define what it means for a language to be present “to a significant extent,” and ensure that the most common language (besides English) is included in that definition (ESEA section 1111(b)(2)(F), 34 C.F.R. § 200.6(f)(1)(ii), (2)-(4)).
- States must develop a plan and timeline for developing these assessments (34 C.F.R. § 200.6(f)(2)(ii)(D)).



ASSESSMENTS FOR ENGLISH LEARNERS:

ACADEMIC ASSESSMENTS

- State definitions of languages spoken “to a significant extent” must encompass at least the most populous language other than English spoken by the State’s participating student population:
 - Consider languages other than English that are spoken by distinct populations of ELs, including ELs who are migratory, ELs who were not born in the US, and ELs who are Native American.
 - Consider languages other than English spoken by a significant portion of the participating student population in one or more of a State’s LEAs as well as languages spoken by a significant portion of the participating student population across grade levels (34 C.F.R. § 200.6(f)(1)(ii), (2)-(4)).



ASSESSMENTS FOR ENGLISH LEARNERS:

READING/LANGUAGE ARTS & MATHEMATICS

- States are permitted to administer assessments in a Native American language to students enrolled in a Native American language school or program in any subject until the students are in high school, regardless of whether the students are identified as ELs (34 C.F.R. § 200.6(j)).
- Such assessments must be peer reviewed.
- States must continue to ensure that ELs in Native American schools or programs receive services and that an annual ELP assessment is administered.

RECENTLY ARRIVED ENGLISH LEARNERS

- A “recently arrived EL” is an EL who has been enrolled in schools in the U.S. for less than twelve months (ESEA section 1111(b)(3); 34 C.F.R. § 200.6(i); 200.6(k)(2), (3)).
- A State may exempt a recently arrived EL from one administration of the State’s reading/language arts assessment.
- Recently arrived ELs must be assessed in mathematics and science, but a State may provide assessments in the native language.



STANDARDIZED ENTRANCE AND EXIT PROCEDURES

- Under section 3113(b)(2) of the amended ESEA, each State must establish and implement standardized entrance and exit procedures for ELs.
- States must consult with LEAs on these entrance and exit procedures.
- States must assure assessment of all students who may be ELs for English language proficiency within 30 days of enrollment in a school in the State.



Services for English Learners



ENGLISH LEARNER PROVISIONS IN THE ESEA

PROVISIONS MOVED FROM TITLE III, PART A TO TITLE I, PART A

- State activities that have moved to Title I, Part A include:
 - Alignment of ELP standards to State content standards (ESEA section 1111(b)(1)(F));
 - Alignment of ELP assessments to ELP standards (ESEA section 1111(b)(2)(G)(ii));
 - Establishment of ELP goals and indicators for accountability purposes (ESEA section 1111(c)(4)(A)(ii), 1111(c)(4)(B)(iv));
 - Identification for interventions to address ELs' academic achievement and progress in attaining ELP (ESEA section 1111(c)(4)(C)(iii), 1111(c)(4)(D)); and
 - Reporting to the State on the number and percentage of ELs achieving ELP (ESEA section 1111(h)(2)).



ENGLISH LEARNER PROVISIONS IN THE ESEA

PROVISIONS MOVED FROM TITLE III, PART A TO TITLE I, PART A

- LEA activities that have moved to Title I, Part A include:
 - EL parental notification regarding language instruction educational programs (LIEPs) and related information (ESEA section 1112(e)(3));
 - Parental participation (regular EL parent meetings) (ESEA section 1112(e)(3)(C)(ii)); and
 - Reporting to the State on the number and percentage of ELs achieving ELP (ESEA section 1111(h)(2)).



LEA ACTIVITIES

TITLE III, PART A FORMULA SUBGRANTS

LEA Required Activities:

- **Effective** ~~high-quality~~ LIEP.
- **Effective** ~~high-quality~~ professional development.
- Providing and implementing other effective activities and strategies that enhance or supplement language instruction educational programs, which include parent, family, and community engagement activities.

Reference: See ESEA section 3115(c).



TITLE III, PART A FORMULA SUBGRANTS

LEA Uses of Title III, Part A Funds

- Upgrading program objectives
- Providing community participation programs, family literacy services, and parent and family outreach and training to ELs and their families
- Providing tutorials to ELs
- Improving the instruction of ELs

Reference: ESEA section 3115(d).

New LEA Uses Under the Amended ESEA

- Improving the instruction of ELs, which may include ELs with a disability, through educational technology
- Offering early college high school or dual/concurrent enrollment programs
- Providing materials in a language that a student can understand
- Assisting teachers, including preschool teachers, in establishing LIEPs



IMMIGRANT CHILDREN AND YOUTH SUBGRANTS

- States must make at least one Title III, Part A subgrant for immigrant children and youth.
- States may determine:
 - award size and scope
 - discretionary or formula
 - multi- or single-year
 - definition of “significant increase”—based on the current year as compared to the average of the two preceding fiscal years
- LEAs must use funds to provide enhanced instructional opportunities for immigrant children and youth. Changes include family outreach as an allowable activity.

Reference: See section G of EL Guidance and ESEA sections 3114(d), 3115(e).



ENGLISH LANGUAGE PROFICIENCY (ELP) STANDARDS

- Each State plan must demonstrate that the State has adopted ELP standards that are aligned with the State's academic content standards in ESEA section 1111(b)(1)(F).
- States need not change or update ELP standards as long as they meet ESEA Section 1111(b)(1)(F) requirements, including:
 - 4 domains of language;
 - address proficiency levels of ELs; and
 - aligned with State academic content standards.
- ELP standards must be implemented in every LEA in the State.
- See section B of 2016 EL Guidance.

Reference: See section B of 2016 EL Guidance.



LANGUAGE INSTRUCTION EDUCATIONAL PROGRAMS (LIEPs)

- States and LEAs should adopt criteria to ensure LIEPs are effective.
- States and LEAs may select any LIEP that is effective and is consistent with Federal laws.
- LEAs are required under Title VI and the Equal Educational Opportunities Act (EEOA) to provide a language assistance program that is effective, and LEAs must use Title III to supplement, not supplant funds used to meet this obligation.
- LEAs must provide for equitable participation of eligible private school students, teachers, and other educational personnel (ESEA section 8501 et seq.).
- States may use State-level Title III funds to incentivize highly effective LIEPs by providing financial awards to LEAs that have improved EL progress.

Reference: See section C of EL Guidance and ESEA sections 3111(b)(2)(E), 3113(b)(8), 3115(c)(1), 8501-8504.



EDUCATORS OF ENGLISH LEARNERS

ESEA SECTIONS 3111(B)(2)(B) AND 3115(C)(2)

The amended ESEA includes several requirements for supporting educators of ELs:

- Teacher and principal preparation and professional development must be effective. States may use Title III, Part A State-level funds for professional development to improve teaching skills.
- LEAs must use Title III, Part A funds for effective professional development for teachers and principals of ELs.
- Teacher qualifications are determined by States, not defined by the ESEA.
- Preparation and professional development programs for teachers of ELs should be based on the highest available level of evidence and measured for effectiveness.
- Title III, Part A funds may be used for supplemental staff to support ELs as long as a State or LEA has already met its civil rights obligations.

Reference: See section D of Title III Guidance and ESEA sections and 3115(c)(2).



PARENT, FAMILY, AND COMMUNITY ENGAGEMENT

The amended ESEA provisions for parent, family, and community engagement with regard to ELs:

- Title I-funded LEAs **must**: provide effective outreach to parents of ELs including regular meetings (ESEA section 1112(e)(3)(C)(ii)).
- Title III-funded LEAs **must**: use part of funds for parent, family, and community engagement (ESEA section 3115(c)(3)).
- Title III, Part A State plans **must**: be developed in consultation with parents of ELs and other stakeholders (ESEA section 3113(b)(3)(G)).
- Title III, Part A State-level funds **may**: be used for **technical assistance** to LEAs on family engagement.
- An LEA must use Title III, Part A funds to supplement, but not supplant, its obligations under Title VI and the EEOA to ensure meaningful communication with LEP parents (ESEA section 3115(g)).

Reference: See section E of Title III Guidance, ESEA sections 1112(e)(3)(C), 3111(b)(2)(D)(iv), 3113(b)(3)(G), 3115(c)(3).



PARENT, FAMILY, AND COMMUNITY ENGAGEMENT

- LEA required parental notification on child's identification as an EL and placement in an LIEP:
 - No later than 30 days—beginning of school year
 - Within 2 weeks of placement in an LIEP for students who enroll after the start of the school year
- Parents of ELs may decline to enroll in or have the student removed from an LIEP:
 - Parental decision must be knowing and voluntary
 - LEA must still meet Title VI and EEOA obligations
 - Child must still be annually assessed for English language proficiency

Reference: See section E of EL Guidance; ESEA sections 1112(e)(3); and 2015 ED-DOJ Dear Colleague Letter, section II.G.



EARLY LEARNING

- The amended ESEA promotes the inclusion of ELs in early learning programs as part of Title III, Part A (ESEA sections 3102 and 3115).
- Title III, Part A funds may be used for professional development for teachers of ELs in publically-funded preschool programs.
- LEAs may use a portion of Title III funds to provide effective LIEPs in preschool. Such LIEPs must be:
 - Coordinated with other programs and services
 - Supplemental
 - High quality and effective

Reference: See section F of EL Guidance; Early Learning Guide.



REPORTING AND DATA COLLECTION

REQUIREMENTS FOR ENGLISH LEARNERS

- LEA reporting requirements for ELs are included under Title I, Part A (State and local report cards) and Title III, Part A.
- LEA Title III reporting requirements:
 - Title III programs and activities
 - # and % of ELs making progress in English
 - # and % of ELs attaining ELP and exiting LIEPs
 - # and % of former ELs who meet content standards—4 years
 - # and % of ELs who have not exited LIEPs after 5 years as an LIEP
 - Any other information required by the SEA (ESEA section 3121)
- States and LEAs are encouraged to disaggregate EL performance data by other EL subgroups—long-term, recently arrived, students with interrupted formal education.

Reference: Section H of EL Guidance; ESEA section 3121.



TITLE III, PART A REPORTING

ENGLISH LEARNERS WHO HAVE NOT ATTAINED ENGLISH LANGUAGE PROFICIENCY WITHIN FIVE YEARS AND FORMER ENGLISH LEARNERS

- LEAs must annually report the # and % of ELs who have not attained ELP within five years of initial classification as an EL and first enrollment in the LEA:
 - If a student moves to a new LEA, that LEA should still include the student in reporting on this measure if he/she has not attained ELP
- LEAs must annually report # and % of ELs meeting State standards for four years after students achieved ELP and no longer receive Title III services:
 - Must report for each of the four years after no longer receiving Title III services
 - Must include results on reading/language arts, mathematics, and science assessments
 - Must be disaggregated by ELs with disabilities

Reference: See sections I and J of EL guidance and ESEA section 3121.



TITLE III, PART A REPORTING

ENGLISH LEARNERS WITH DISABILITIES

- LEAs must disaggregate the following measures by ELs with disabilities:
 - # and % of ELs making progress in English
 - # and % of former ELs meeting content standards for each of the four years they no longer receive Title III services
- LEAs are encouraged to disaggregate additional measures by ELs with disabilities for program planning, professional development, and instructional decision-making.
- Title III reporting requirements differ from IDEA reporting requirements.

Reference: See section K of Title III Guidance and ESEA section 3121.



RESOURCES

- All ESSA resources: www2.ed.gov/policy/elsec/leg/essa/index.html
- Non-Regulatory Guidance: ELs and Title III, Part A: www2.ed.gov/policy/elsec/leg/essa/essatitleiiienglishlearners92016.pdf
- Non-Regulatory Guidance: Early Learning in the ESSA: www2.ed.gov/policy/elsec/leg/essa/essaelguidance10202016.pdf
- January 7, 2015 Dear Colleague Letter: Department of Education, Office of Civil Rights and Department of Justice: www2.ed.gov/about/offices/list/ocr/ellresources.html
- EL toolkit: www2.ed.gov/about/offices/list/oela/english-learner-toolkit/index.html
- Innovative Solutions for Including Recently Arrived ELs in State Accountability Systems: www2.ed.gov/about/offices/list/oese/oss/technicalassistance/real-guidefinal.pdf

For additional information on OSEP-funded TA centers and resources, please see www.OSEPIdeasAtWork.org. To contact the Office of State Support, please email OESE@ed.gov.





Questions?

