



Kentucky Department of Education

# District Guide for the English Learners Program

Meeting the Requirements for Serving English Learners

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## English Learners

English Learners (ELs) are those students whose primary language is a language other than English [See ESSA 8101(20) for full definition]. ELs are an extremely diverse group of students, representing hundreds of language backgrounds and nationalities (including many born in the U.S.). An EL student may be from any grade, academic proficiency, or socioeconomic level in our society. The only characteristics shared by all ELs are a lack of English proficiency and the need for linguistic support to help them access opportunities, both academic and otherwise, in schools where English is the language of instruction.

Previously referred to as *Limited English Proficient (LEP)* or *English Language Learners (ELLs)*, the Every Student Succeeds Act (ESSA) replaced this language with the more student-first term, *English Learner*. This shift in terminology reflects a focus on the learner rather than a perceived limitation. ESSA also expanded the attention given to the academic and language proficiency aspects of ELs' participation in school. Expectations for serving ELs are found in nearly all formula grant programs. Discussions about ELs cannot be limited to Title III alone; civil rights laws, Title I, and Title III all contain requirements for serving EL students. An understanding of all requirements as well as increased cooperation between programs are necessary for providing effective EL programming and services. The [Legal Background on EL Services](#) provides a brief summary of the legal requirements for servicing EL students.

**All districts are required to develop and maintain an up-to-date EL program plan. This includes districts with no ELs currently enrolled, as an EL student may transfer to that district at any point in time.**

### Kentucky's EL/Title III Program

The Kentucky EL/Title III program provides support to districts as they work with their ELs and immigrant students to:

- Meet all civil rights requirements for serving ELs
- Choose an educational approach;
- Identify and assess the students;
- Provide an evidence-based program of services;
- Provide staffing and resources;
- Implement state criteria for transitioning students from services; and
- Maintain accurate data and reporting in order to:
  - Monitor transitioned students
  - Periodically evaluate and revise their program
  - Receive funding allocations

Please reference the [English Learners Contact Guide](#) to determine the appropriate KDE consultant to handle any EL questions. Districts receiving Title III funds can find their assigned KDE consultant on the [Title III Program Consultant](#) list.

### Document Overview

The purpose of this document is to provide guidance for *all* districts in developing, maintaining, and improving an instructional program for English Learners (ELs) that meets state and federal regulations. This document includes information on the requirements for serving ELs under Title VI of the Civil Rights Act of 1964; the Equal Education Opportunity Act (EEOA) of 1974; Title I, Part A; and Title III, Part A.

## District EL Program Requirements

The purpose of an EL program is to ensure ELs, including immigrant children and youth, attain English language proficiency, develop high levels of academic achievement in English, and meet the same challenging state academic achievement standards as all children are expected to meet.

**All districts/schools have an obligation to provide appropriate services under Title VI of the Civil Rights Act of 1964 and the EEOA of 1974. Civil rights and EEOA required EL services cannot be paid for with federal funds. Services provided to ELs using federal funds must be supplemental.**

All districts have an obligation under Title VI and the EEOA to:

- Identify and assess all potential EL students;
- Provide EL students with a language assistance program that is educationally sound and proven successful;
- Provide sufficiently well-prepared and trained staff and support the language assistance programs for EL students;
- Ensure that EL students have equal opportunities to meaningfully participate in all curricular and extracurricular activities;
- Avoid unnecessary segregation of EL students;
- Ensure that EL students who have or are suspected of having a disability are identified, located, and evaluated in a timely manner and that the language needs of students who need special education and disability related services because of their disability are considered in evaluations and delivery of services;
- Meet the needs of EL students who opt out of language assistance programs;
- Monitor and evaluate EL students in language assistance programs to ensure their progress with respect to acquiring English proficiency and grade level content knowledge, exit EL students from language assistance programs when they are proficient in English, and monitor exited students to ensure they were not prematurely exited and that any academic deficits incurred in the language assistance program have been remedied;
- Evaluate the effectiveness of a school district's language assistance program(s); and
- Ensure meaningful communication with limited English proficient (LEP) parents.<sup>1</sup>

For more information on these legal obligations, see the [January 7, 2015 Dear Colleague Letter](#) issued by the Office for Civil Rights (OCR) at the U.S. Department of Education (USED) and the Civil Rights Division at the U.S. Department of Justice (DOJ). USED and DOJ are both responsible for enforcing Title VI in the education context while DOJ is responsible for enforcing the EEOA. Additional information and fact sheets are available on the OCR [Schools' Civil Rights Obligations to English Learner Students and Limited English Proficient Parents](#) webpage.

The Office of English Language Acquisition (OELA) designed an [English Learner Tool Kit](#) based on the Dear Colleague Letter to assist districts in meeting their legal obligations to ELs. States and districts are legally obligated to provide services to support ELs in attaining English language proficiency while meeting college- and career-ready standards. ELs must have equal opportunities to participate in the district curricular, co-curricular, and extracurricular programs and activities as their never-EL peers.

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<sup>1</sup> USED 2016 Title III, Part A Guidance, Question A-3.

## Lau Plan

To meet the civil rights and EEOA requirements, all districts need to develop a local plan which is commonly referred to as the Lau Plan (Lau v. Nichols, 1974). The plan should be designed to meet the district obligations to ELs under Title VI of the Civil Rights Act and the EEOA. In developing a Lau Plan, the district should consult with all stakeholders. OCR provides several resources for [Developing Programs for English Language Learners](#). The Lau Plan should be viewed as a “working document” that is regularly reviewed and revised when necessary. However, the plan must not be altered without the participation or approval of the Lau Plan team members.

Districts are not required under federal and state law to use a specific curriculum or educational approach to serving EL students. However, the district must provide an effective Language Instruction Educational Program (LIEP) that meet the needs of ELs and demonstrates success in increasing English language proficiency and student academic achievement (ESSA Section 3115(c)(1)).

The following outline contains the information that must be included in a district Lau Plan. Additional information may be included at the discretion of the district. In addition to the names of the Lau Plan team members responsible for its development, a district plan must include the following:

- Lau Plan Guiding Principles
- Enrollment, Identification, and Placement of ELs in a Language Instruction Educational Program (LIEP)
- Description of the LIEP
- Process to Provide Meaningful Access to all Co-curricular and Extracurricular Programs and Activities
- EL Professional Development for Staff who Deliver Instruction or Support the LIEP for ELs
- Annual English Language Proficiency Assessment and Administration
- LIEP Exit Criteria and Procedures
- Monitoring Procedures after Students Exit the LIEP Program
- EL Program Evaluation

Additional information may be included in the plan at the discretion of the district. Lau Plans should be reviewed and revised on a regular basis. Revisions should take into account program evaluations and stakeholder feedback.

## Program Monitoring

### EL Program Monitoring

In the absence of specific regulations regarding EL program evaluations, states are encouraged to use existing guidance in developing an evaluation framework. Section I of the [Dear Colleague Letter](#) provides a look at the basic criteria used by USED in evaluating the effectiveness of a state or district’s core EL program. The evaluation of the core EL program is guided by the three Castañeda Principles, which apply to all programs meant to support EL students’ acquisition of English:

1. The program must be based on sound educational theory;
2. The education system/agency implementing the program must do so to full effect (i.e., supply sufficient personnel, time, and resources for it to work as intended); and
3. If the program fails to overcome linguistic barriers for students after “enough time” to be considered a fair trial period, it should be discontinued in favor of another theory.

Chapter 9 of the OELA English Learner Toolkit, [Evaluating the Effectiveness of a District’s EL Program](#), contains additional information and resources for evaluating the EL program.

### Title III Monitoring

States are required to monitor district Title III programs under ESSA 3113(b)(8) as well as conduct fiscal program reviews under ESSA 3113(b)(3)(F). Kentucky’s Title III programs are monitored as part of the [Statewide Consolidated Monitoring Process](#). In an effort to reduce the impact on district time and services, KDE coordinates the monitoring of its state and federal programs with a selected set of districts each year. Districts are selected for monitoring using a risk assessment tool developed in accordance with [Uniform Grant Guidance](#) regulations regarding monitoring. Any district receiving Title III funds (whether as a stand-alone district, fiscal agent, or consortium member) selected for consolidated monitoring will participate in Title III monitoring. KDE will provide guidance to the selected districts prior to the monitoring visit. Districts not receiving Title III funds selected for consolidated monitoring will participate in monitoring of the core EL program.

### Program Timeline

Date	Activity
October 1-30	All districts review English Learner (EL) Extract in Infinite Campus for federal reporting (English Learner Enrolled and Served <i>as of October 1</i> ).
Second Tuesday in October	KDE extracts Immigrant data from Infinite Campus for Immigrant Subgrant allocations.
November 1	KDE extracts English Learner data from Infinite Campus for federal reporting requirements.
January - February	Declaration of Participation forms distributed to private school officials to identify private schools interested in receiving Title III services.
Second Tuesday in March	KDE extracts EL data from Infinite Campus for preliminary Title III funding allocations (All ELs served in the district throughout the current school year).
Spring	Consultation meeting with private schools which have expressed an intent to participate in the Title III program.
April	Preliminary Title III funding allocations will be uploaded into Grant Management Application and Planning (GMAP) system.
April 15	<p>All districts must complete the Title III Intent to Participate and OCR Assurances in GMAP for the upcoming school year. Each district must select one of the following options for the Intent to Participate:</p> <ul style="list-style-type: none"> <li>• District generates \$10,000 or more and will function as a stand-alone system.</li> <li>• District will act as the Fiscal Agent for other districts.</li> <li>• District will join a consortium to utilize Title III EL funds.</li> <li>• District is releasing ALL generated Title III funds.</li> <li>• District does not receive ANY Title III funds.</li> </ul>
May 1	<p>District Data Verification for English Learner and Immigrant opens. KDE may contact districts regarding discrepancies (EL students without an EL service or with a home language of English) in their data to ensure all ELs are accurately counted.</p> <p><b>Note: Failure to address critical errors in Infinite Campus will result in an inaccurate count of ELs for the district and could impact the district’s eligibility to receive Title III funding.</b></p>
After State Testing – June 30	Enter Program Status and Program End Date (6/30) for students who have exited EL status during the academic year

Date	Activity
<b>June 30</b>	District Data Verification for English Learner and Immigrant closes. All English Learner and Immigrant data should be updated and complete in Infinite Campus
<b>July 1</b>	KDE extracts English Learner and Immigrant data from Infinite Campus State Edition for end-of-year reporting as well as final Title III EL and SEEK funding allocations.

## WIDA

The WIDA Consortium is a member-based organization made up of U.S. states, territories, federal agencies, and international schools worldwide. WIDA is dedicated to the research, design, and implementation of a high-quality, standards-based system for ELs in grades K-12. Kentucky joined WIDA in 2006. As a consortium member state, Kentucky utilizes WIDA's proficiency standards, screeners, proficiency assessment, and professional learning opportunities.

### English Language Development (ELD) Standards

ESSA 1111(b)(1)(F) requires each state adopt English language proficiency (ELP) standards that are: *derived from the four recognized domains of speaking, listening, reading, and writing; address the different proficiency levels of ELs; and are aligned with the challenging state academic standards.*

The [WIDA English Language Development \(ELD\) Standards](#) serve as Kentucky's required ELP standards. These standards will act as a companion document to the [Kentucky Academic Standards](#) (KAS) in guiding instruction for Kentucky's ELs. The WIDA ELD Standards do not replace the KAS. The WIDA ELD Standards, updated in 2012, represent the social, instructional, and academic language that students need to engage with peers, educators, and the curriculum in schools.

### English Language Proficiency (ELP) Screener and Assessment

Information on Kindergarten W-APT, WIDA Screener Online and ACCESS can be found on the [KDE Office of Standards, Assessment and Accountability \(OSAA\) ACCESS for ELLs](#) webpage.

#### Screener

Kentucky uses WIDA screener assessments to determine the ELP of students who have been identified as potential EL students based on the Home Language Survey (HLS). WIDA screeners are flexible, on-demand assessments that can be administered at any time during the school year. Kindergarten students are screened using the [Kindergarten W-APT](#) and students in grades 1-12 are screened using the [WIDA Screener Online](#).

KDE's OSAA developed a [WIDA Online Screener video](#) and [WIDA Online Screener PowerPoint](#) to provide training for the WIDA Screener Online.

#### Annual Assessment

ESSA 1111(b)(2)(G) requires districts to assess the ELP of all EL students on an annual basis. The ELP assessment must be aligned with the state's ELP standards. WIDA provides Kentucky with the annual ELP assessment known as [ACCESS for ELLs 2.0](#). In Kentucky, this test is given to all ELs during the annual testing window, typically from the beginning of January through early February. Any student identified as an EL must take the ACCESS test, including ELs not receiving services. An EL student will participate in the annual ELP assessment until meeting the state exit criteria requirements.

The [Kentucky ACCESS for ELLs Checklist](#) is a state checklist intended to serve as a guide for personnel involved in administering the ACCESS for ELLs Online, and includes unique steps related to Kindergarten and Alternative ACCESS assessments. The checklist highlights all tasks that need to be completed before, during, and after testing within a school or district as well as identifies the individual who typically completes the tasks.

The [Kentucky ACCESS for ELLs State-Specific Directions](#) provides guidance and instructions for administering the ACCESS assessments.

## Alternate ACCESS for ELLs

The [Alternate ACCESS](#), sometimes referred to as Alt ACCESS, is a large-print, paper-based test individually administered to ELs in grades 1-12 with significant cognitive disabilities which prevent them from meaningfully participating in the traditional ACCESS for ELLs. The Alternate ACCESS meets U.S. federal requirements under both the Individuals with Disabilities in Education Act of 2004 (IDEA) as well as the ESSA for monitoring and reporting ELs' progress toward English language proficiency.

A student's language is tested in four domains: listening, reading, speaking, and writing. As the Alternate ACCESS is intended for ELs with the most *significant* cognitive disabilities, each student's IEP and 504 teams must determine which assessment the student should take and whether or not accommodations are required. IEP teams should follow their state's specific alternate assessment participation criteria. WIDA's [Alternate ACCESS for ELLs Participation Criteria Decision Tree](#) provides additional guidance on eligibility for the Alternate ACCESS.

## English Learner Assessment Information and Regulations

Information on the regulations of EL student assessment is featured in the Inclusion of Special Populations Training located on the [OSAA Assessments Regulations Training](#) webpage. This training provides assessment guidance for ELs based on Section 2 of [703 KAR 5:070](#) Inclusion of Special Populations in the State-Required Assessment and Accountability Programs.

## Professional Learning

WIDA provides [Professional Learning](#) opportunities to its member states. Learning opportunities are offered in online, in-person, and blended formats. Each year, KDE selects the WIDA professional learning opportunities which will be offered during the upcoming school year.

## Student Identification and Placement

ESSA 3113(b)(2) requires states establish standardized statewide entrance and exit procedures for ELs. These procedures must be applied consistently across the state and consistent with federal civil rights obligations under Title VI. ESSA 1112(e)(3)(D) prohibits states and LEAs from basing any part of the EL identification process on the basis of a surname or language-minority status. Please note that Title III funds cannot be used for purposes related to the identification of ELs.

### Home Language Survey

In Kentucky, all local school districts are required to administer a Home Language Survey (HLS) to **all** students in grades K-12 upon their initial enrollment in the district as a first screening process to identify potential English learner students ([703 KAR 5:070](#) and the [associated guidance](#)). The HLS should be completed by the student's parent/guardian. Chapter 1 of the OELA English Learner Toolkit, [Identifying All English Learner Students](#), advises districts and schools to reassure parents that the HLS is used solely to offer appropriate educational services, not for determining legal status or for immigration purposes. The HLS should not include any questions which would be considered to have a "chilling effect" and thereby discourage enrollment and/or attendance. This includes questions regarding immigration status, date the child first entered the U.S., etc. Information such as a child's Social Security Number (SSN) cannot be required for enrollment (*Plyler v. Doe*, 1982). If a district's enrollment form asks for the SSN, it must be made clear to parents that providing this information is voluntary.

The HLS shall be based at a minimum on four questions and if needed, translations or oral interpreters provided at no expense to the families. The four questions are:

1. What is the language most frequently spoken at home?
2. Which language did your child learn when he/she first began to talk?
3. What language does your child most frequently speak at home?
4. What language do you most frequently speak to your child?

Districts may use the [HLS template](#) created by KDE, however they are not required to do so. To obtain accurate information and avoid including any questions with a chilling effect, it is recommended that the HLS be a separate document from the district enrollment form. See the [Fact Sheet: Information on the Rights of All Children to Enroll in School](#) and the related [Questions and Answers for States, School Districts and Parents](#) for more information on what can and cannot be requested upon a child's enrollment in school.

### EL Identification Process

**Step One:** Administer the Home Language Survey (HLS) to all students upon initial enrollment.

**Step Two:** Review the responses on the HLS. If any of the answers on the HLS are a language other than English, the student is a "potential EL" and will need to be assessed.

If the student is in Kindergarten, administer the W-APT for Kindergarten. If the student is in grades 1-12, administer the WIDA Screener Online.

If the student in grades 1-12 scores a 4.5 overall composite on the WIDA Screener Online, the student is identified as Initially Fully English Proficient (IFEP). Students in grades 1-12 identified as IFEP will not take the ACCESS for ELLs in January. If the student in grades 1-12 scores below a 4.5 overall composite, the student is identified as an EL.

A Kindergarten student who has taken the W-APT test must be enrolled as an EL student, regardless of the W-APT score results in accordance with Kentucky's EL [Identification and Placement Guidance](#). Although parents may decline EL services, Kindergarten students may not exit EL status until receiving a 4.5 overall composite score on the ACCESS for ELLs test in the first grade. Section G of the [Dear Colleague Letter](#) provides additional guidance regarding meeting the needs of students who have opted out of services.

If all responses on the HLS are English, no additional action needs to be taken. The student is not considered an EL.

**Step Three:** Create a Program Service Plan (PSP). Once a student is identified as an EL, the district is required to provide a PSP. Parents must be notified and invited to the PSP meeting within 30 days of the first day of school. If the student was enrolled after the start of the school year, the PSP meeting must occur within 2 weeks of enrollment as required by ESSA 1112(e)(3)(A-B) and [703 KAR 5:070](#). All EL students will take the ACCESS for ELLs test in January.

This process is also outlined in [WIDA's Kentucky English Learner Identification and Placement Guide](#).

## Program Services Plan

Students receiving EL services must have a Program Service Plan (PSP) in place. KDE's [PSP Template](#) outlines all information required to be on the PSP. Districts must also maintain a folder for each student containing information related to the student's status as an EL and details about their individual PSP. During monitoring visits, KDE will review randomly selected student folders to ensure the appropriate documentation is maintained. Folders should be updated on a regular basis and contain the following documentation:

- Copy of the HLS
- Initial ELP assessment scoresheet (Kindergarten W-APT/WIDA Screener Online)
- Copy of the parent notification letter containing the required information in ESSA 1112(e)(3)(A)
- Level of academic achievement (e.g., report cards, midterms, etc.)
- Annual ELP assessment scoresheet (ACCESS for ELLs 2.0)
- The Program Service Plan which includes the following essential elements required by 703 KAR 5:070
  - The name and date of the ELP assessment administered to determine a student's EL status;
  - Specific accommodations to be implemented in instruction;
  - A list of the names of the PSP committee members who reviewed the documentation and made the decisions.
  - The appropriate accommodations needed; and
  - The signature of the principal of the appropriate school as an indication of approval for the described accommodations.

Some districts choose to include a checklist to be completed each year to ensure each folder has been updated accordingly and contains the required documentation. Additional documentation may be included at the district's discretion. Infinite Campus must also be updated on a regular basis to reflect changes to the student's PSP.

## Student Exit Criteria

In order to exit from an EL program in the state of Kentucky, a student must achieve a score of 4.5 or higher Overall Composite Proficiency Level on a Tier B/C ACCESS for ELLS® 2.0 as a student in the first grade or above. The online version of ACCESS for ELLs 2.0 is an adaptive test in which a student's performance as they progress through the test determines what questions they see next. The test contains different tiers based on difficulty. Tier A contains easier items than Tier B/C. WIDA's [Interpretive Guide for Score Reports](#) provides additional information on assessment scores. Students cannot exit in Tier A. Students taking the Alternate ACCESS for ELLs must score a P2 or higher Overall Composite in order to exit EL status. Kentucky's exit criteria is also included in the [ACCESS for ELLs Online Checklist](#). The **Program Exit Date** will be June 30 of the school year in which they exited services in accordance with the [English Learner Data Standards](#).

### Monitoring Exited EL Students

Districts have an obligation to monitor the academic progress of former EL students who have been re-designated fully English proficient (RFEP). The students must be monitored for four years after exiting from a language instruction program [ESSA 1111(b)(3)(B)].

Monitoring must ensure that RFEP students are able to participate meaningfully in the regular classroom. After students have exited an EL program, school districts must monitor the academic progress of exited EL students to ensure that:

- students were not prematurely exited;
- any academic deficits they experienced as a result of participation in the EL program have been alleviated;
- they are successfully participating in the regular academic program comparable to their never-EL peers.

Designated instructional staff, such as English as a Second Language (ESL) staff or a guidance counselor, must formally monitor the RFEP student's academic performance regularly. The information must be documented in the student's records. If monitoring shows that the student is struggling in academic performance and/or English language skills, appropriate assistance and language instruction services must be made available to the student.

If an exited EL is not progressing academically as expected and monitoring suggests a continuing language issue, districts should re-test the student's ELP with a valid, reliable, and grade-appropriate ELP assessment (e.g., WIDA MODEL) to see if the student should be provided additional EL services (See [Kentucky's EL Identification and Placement Guidance](#) and [Non-Regulatory Guidance](#) question J-3). If reentered into EL services the district should document the reasons and obtain the parent's consent to reenter the student into EL services.

The district must collect data on the academic performance of RFEP students for the duration of the four year period. The sources of information collected may include:

- records on length of time from entry in a US English speaking school to exit from EL programs;
- performance on standardized achievement tests;
- grades in content area classes;
- Grade Point Averages (GPAs);
- teacher observations;
- parent observations and/or feedback;
- meeting promotion and graduation requirements; and/or
- graduation rates.

KDE's [Exited English Learner Monitoring Form](#) can be used by districts to monitor exited ELs. Chapter 8 of the OELA English Learner Toolkit, [Monitoring and Exiting English Learners from EL Programs and Services](#), also provides tools and resources on monitoring former ELs. The following guidelines are based on information found in chapter 8 of the English Learner Toolkit.

### Documentation of Exited EL Student Progress

Districts should maintain evidence of the monitoring of exited EL students. The implementation of districtwide monitoring processes and procedures can help ensure all exited EL students are monitored with fidelity. Procedures for monitoring students who have exited the LIEP program should also be included in the Lau Plan. Information provided in these procedures may include, but are not limited to, the following:

- The data the district will utilize to measure the success of RFEP students in the district's overall education program (e.g., grades, test scores, teacher observations) as well as the methods or criteria used to analyze that data;
- The procedures, methods, and services to be used by the district to provide assistance to RFEP students that experience lack of success due to academic deficits incurred while the student was receiving language instruction services;
- The procedures to be used by the district to provide services and meet civil rights requirements if students' insufficient academic progress is due to lack of English language proficiency; and/or
- The procedures to provide appropriate communications to inform parents of RFEP students' progress during the four year monitoring period.

During on-site monitoring visits, KDE will review a small number of randomly selected student folders for both active and RFEP students. When reviewing folders for RFEP students, KDE looks for documentation of the following:

- Designated instructional staff to monitor the student;
- Evidence that the student is being monitored according to the frequency guidelines set by the district (e.g., weekly, quarterly, each semester);
- ACCESS for ELLs 2.0 score sheets verifying the student met Kentucky's exit criteria;
- The student's most recent state assessment data which can be compared to their never-EL peers;
- Data on performance in classes which may include mid-terms, report cards, GPA, teacher observations and feedback, and other appropriate information to measure student success; and
- If academic performance is poor, documentation of meetings/conferences and actions taken.

If student performance data indicates the RFEP student is not progressing as expected due to a persistent language need, the folder should contain evidence the district is addressing the situation. KDE will look for documentation of the following:

- The method by which the district identified the source of the student's lack of success (academic deficits incurred while the student was receiving language instruction services, lack of English proficiency, or other reasons);
- A valid, reliable, and grade-appropriate ELP test used to re-test the student's ELP; and
- If the student is reentered into EL services, the district should document the reasons why and the parent's consent to reentry.

### Required Reporting for Exited ELs

ESSA 3121(a)(5) requires that districts report on the number and percentage of ELs meeting the State academic standards for four years after students are no longer receiving Title III services. The data must include results on content assessments for reading/language arts, mathematics, and science and be disaggregated by English learners with disabilities. Districts

should also disaggregate data by year after exit date (e.g., 1<sup>st</sup> year, 2<sup>nd</sup> year) to ensure that any academic deficits incurred due to participation in a language assistance program are recouped.

## English Learners with Disabilities

ESSA 3201(4) defines English learner with a disability as “an English learner who is also a child with a disability, as that term is defined in section 602 of the Individuals with Disabilities Education Act.” According to the [January 2015 Dear Colleague Letter](#), states and districts “must ensure that all EL students who may have a disability, like all other students who may have a disability and need services under IDEA or Section 504, are located, identified, and evaluated for special education and disability-related services in a timely manner.”

Districts must provide EL students with disabilities (ELSWD) with both the language assistance and disability-related services to which they are entitled under federal law, not one or the other. Districts must consider the student’s English language proficiency when determining the evaluation materials and appropriate assessments to be used. It is important to conduct the evaluation for special education services in a language that is comprehensible to the student in order to avoid misclassification. Students cannot be identified or determined to have disabilities based on their English language proficiency.

Collaboration between the special education and English language departments is crucial in serving ELSWD. IDEA requires the IEP team consider the language needs of ELSWD as those needs relate to the student’s IEP. The IEP team should include participants with knowledge of those language needs as well as an understanding of how to differentiate between the student’s ELP and the student’s disability. A student’s classification as an EL is equally as important as their classification as having a disability when providing services. The unique needs of an ELSWD are comprised of both the language assistance and disability-related needs, therefore services provided should support each other.

Chapter 6 of the OELA English Learner Toolkit, [Tools and Resources for Addressing English Learners with Disabilities](#), contains additional information on serving ELSWD.

### Reporting Requirements

Title III of the ESSA requires states and districts report the number and percentage of ELs in the programs and activities who are making progress toward achieving ELP in the aggregate and disaggregated, at a minimum, by ELSWD [ESSA 3121(a)(2)]. ESSA 3121(a)(5) requires data on former ELs also be disaggregated by ELSWD. Additional information on the reporting requirements for ELSWD can be found in Section K of the [English Learners and Title III Non-Regulatory Guidance](#) and the [Resource Guide: Accountability for English Learners under the ESSA](#).

## Data Collection

Data is collected and reported to KDE annually by each school district via Infinite Campus. English Learner and immigrant data for the past three years is documented and reported annually to the U.S. Department of Education by KDE. English Learner data is reported publicly on the [School Report Card](#). Districts need to run the English Learners extract in Infinite Campus on a regular basis throughout the school year to check for Critical Errors. Critical Errors include: EL students with no service type, no instructional accommodations and/or a home language listed as English. Information on how to correct the Critical Errors can be found in the [English Learner Data Standards](#).

The U. S. Department of Education requires data on all EL students enrolled in districts on October 1. KDE will do an Infinite Campus English Learners extract using the starting and ending date of October 1 annually. Districts should run the English Learners extract on a regular basis to ensure that district data is up to date and proper services/accommodations are provided for EL students enrolled.

KDE will do an English Learners extract on the second Tuesday in March to determine *preliminary* district EL counts and Title III allocations. Districts will need to complete the *Intent to Participate* in GMAP by April 15 to determine the Title III districts and consortiums. A July 1 English Learners extract will be conducted to update counts to determine SEEK and final Title III funding allocations. Districts must check and clean up any Critical Errors during the month of May to ensure the accuracy of the July 1 extract.

The immigrant Ad Hoc reports should also be run periodically to check data. KDE will extract immigrant data from Infinite Campus on the second Tuesday in October to determine the recipients of Title III Immigrant Subgrant. Title III requires states to reserve funds for Subgrants to districts that have experienced a “significant increase” in the percentage or number of immigrant children and youth who have enrolled in schools in the district in the current fiscal year compared to the average of the last two fiscal years. (ESEA Section 3114(d)). Districts may be requested to provide additional immigrant data for verification.

Districts should refer to the [English Learner Data Standards](#) and the [Immigrant Data Standards](#) for guidance on entering EL and immigrant information into Infinite Campus and Critical Error removal.

## ELs and Title I, Part A

The enactment of ESSA saw several requirements related to English language proficiency (ELP) assessment and accountability move from Title III to Title I, Part A. This includes requirements at both the district and school levels. These changes allow Title I funds to be used for a broader range of EL-related purposes. Districts must have enough ELs to generate a minimum amount of funds in order to be eligible to receive the Title III grant; Title I, Part A has no such requirement.

### Assessment and Accountability Requirements

The following chart provides a brief summary of the assessment and accountability requirements for serving ELs under Title I, Part A.

Title I, Part A Requirement	Summary and Significance
<b>English Language Proficiency Standards</b> <i>ESSA 1111(b)(1)(F)</i>	<p>Each state must adopt ELP standards that are derived from the 4 recognized domains of speaking, listening, reading, and writing; address the different proficiency levels of ELs; and are aligned with the challenging state academic standards.</p> <p><b>As a member of the WIDA consortium, Kentucky adopted the WIDA English Language Development Standards to meet this requirement.</b></p>
<b>English Language Proficiency Assessment</b> <i>ESSA 1111(b)(2)(G)</i>	<p>Each state must demonstrate that LEAs will provide an annual assessment of ELP of all ELs and that the assessment is aligned with the state’s ELP standards. (Note: This requirement has always been included under Title I, Part A. ESSA removed the identical requirement from Title III).</p> <p><b>As a member of the WIDA consortium, Kentucky uses WIDA’s ACCESS for ELLs 2.0 as the annual ELP assessment.</b></p>
<b>Accountability: English Learner Subgroup</b> <i>ESSA 1111(b)(3)(B)</i>	<p>Former ELs are to be included in the EL subgroup for accountability purposes for 4 years. Prior to ESSA, they were included for only 2 years.</p>
<b>Accountability: Long Term Goals</b> <i>ESSA 1111(c)(4)(A)(ii)</i>	<p>Each state must establish ambitious, state-designed, long-term goals, which include measures for ELs for proficiency on content assessments and increases in the percentage of ELs making progress in achieving ELP within a state-determined timeline.</p> <p><b>Districts receiving Title I funds are now held accountable for this measure rather than only districts receiving Title III funds.</b></p>
<b>Accountability: Annual Meaningful Differentiation</b> <i>ESSA 1111(c)(4)(C)</i>	<p>Accountability determinations known under NCLB as Adequate Yearly Progress (AYP) are now known as Annual Meaningful Differentiation (AMD). AMD includes separate accountability indicators for ELs and the requirement to include differentiation for underperforming subgroups.</p> <p><b>A school may be identified for Targeted Support and Improvement (TSI) based solely on the academic of ELP performance of the EL subgroup, allowing school improvement funds to be used for ELs for the first time when available.</b></p>

## Parent Engagement Requirements

ESSA 1112(e) includes several requirements related to the parents of all ELs in the district. Section E of the [Non-Regulatory Guidance](#) contains additional information on engaging the parents of ELs.

## Parent Notification

ESSA 1112(e)(3)(A-B) requires each district using funds under Title I, Part A or Title III, Part A in order to provide services to ELs to provide parents with notification of their child's identification as an EL and their placement in a language instruction educational program (LIEP). The parental notification must include:

- The reason for the identification of the child as an EL;
- The child's level of English language proficiency, how the level was assessed, and the status of the child's academic achievement;
- Methods of instruction used in the program in which the child is, or will be, participating, and the methods of instruction used in other available programs, including how the programs differ;
- How the program will meet the educational strengths and needs of the child and help the child achieve English language proficiency, and meet academic standards;
- Exit requirements for the program, expected rate of transition to a classroom not tailored for EL students, and expected rate of high school graduation;
- In the case of a child with a disability, how the program meets the annual goals in the child's individualized education program (IEP); and
- Information regarding parents' right to withdraw the child from a program upon their request, and to decline enrollment or choose another program or method of instruction, if available.

This notification must be provided no later than 30 days after the beginning of the school year or within the first two weeks of placement in an LIEP for students who enroll after the start of the school year.

## Parent Participation

ESSA 1112(e)(3)(C) states that each district must implement an effective means of outreach to the parents of all ELs to inform them of how they can:

- be involved in the education of their children; and
- be active participants in assisting their children to:
  - attain English proficiency;
  - achieve at high levels within a well-rounded education; and
  - meet the challenging state academic standards expected of all students.

Implementing an effective means of outreach must include holding, and sending notice of opportunities for, regular meetings for the purpose of formulating and responding to recommendations from the parents of ELs.

## Notice and Format

ESSA 1112(e)(4) requires the notice and information provided to parents under ESSA 1112(e) be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand. This is specific to the parent notification and outreach requirements of Title I, Part A. Providing translation and interpretation services related to core instruction and the core EL program are district requirements under the civil rights laws.

## Coordination with Other Programs

ESSA 1112(c) states that the district's Title I, Part A plan must assure that the district will coordinate and integrate services provided under Title I, Part A with other educational services at the district or school level, such as services for ELs, in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program.

The Title I program should support and supplement the district's core EL program as well as work in cooperation with the EL and/or Title III programs in order to maximize resources. The two programs should collaborate to design programs and interventions which address the needs of EL students. The regular sharing of information and expertise will allow both programs to provide effective services to ELs.

## Title III, Part A

Title III of the Elementary and Secondary Education Act (ESEA) is part of legislation enacted to ensure that ELs, including immigrant children and youth, develop English proficiency and meet the same academic content and academic achievement standards that other children are expected to meet. The purposes of Title III are [See ESSA 3102]:

1. To help ensure ELs attain English proficiency and develop high levels of academic achievement in English;
2. To assist ELs in achieving high levels in academic subjects so they can meet the same challenging academic standards all children are expected to meet;
3. To assist in establishing, implementing, and sustaining effective programs designed to assist in teaching ELs;
4. To assist in the development and enhancement of the capacity to provide effective instructional programs designed to prepare ELs to enter all-English instructional settings; and
5. To promote parent, family, and community engagement in programs and services for ELs.

Title III grants provide States and their districts funds to **supplement** their English language instructional programs. Districts with EL students can apply for a Title III Subgrant. To qualify as a stand-alone Title III district, a district must have enough EL students to generate \$10,000 in allocations. Districts which do not meet the minimum requirement can join or form a consortium with other districts. Districts creating a consortium must qualify for a minimum of \$10,000 in subgrant allocations combined. See question A-15 of the [Non-Regulatory Guidance](#) for more information on forming a consortium. Title III funds are supplemental to local, state, and federal funds and therefore cannot be used to meet any of the civil rights requirements [See ESSA 3115(g)].

### Title III Required Activities

ESSA 3115(c) requires recipients of Title III funds use those funds for three required activities:

- Providing a language instruction educational program (LIEP) to increase ELs' English language proficiency (ELP);
- Providing effective professional development; and
- Providing and implementing other effective activities and strategies that enhance or supplement LIEPs for ELs, which must include parent, family, and community engagement activities, and may include strategies that serve to coordinate and align related programs.

Title III funds must be used to meet these requirements before they can be used for anything else. A list of allowable uses of Title III funds can be found in ESSA 3115(d). 2% of the Title III allocation may be used for administrative expenses.

### Immigrant Subgrant

Immigrant children and youth are defined by ESSA 3201(5) as individuals who are aged 3 through 21; were not born in any state (including the 50 states, the District of Columbia, and Puerto Rico); and have not been attending one or more schools in any one or more states for more than 3 full academic years. **The term immigrant is not related to an individual's legal status in the United States.** Under *Plyler v. Doe*, schools are required to provide equal access to a basic public education to all students regardless of immigration status.

The Title III Immigrant Subgrant, outlined in ESSA 3115(e), is awarded to districts that have experienced a significant increase in their immigrant student population as defined by ESSA 3114(d)(1). These funds must be used to pay for activities that provide enhanced instructional opportunities for immigrant children and youth. Any district may be eligible for the immigrant subgrant, not just districts receiving Title III funds. Districts eligible for this subgrant will be notified by KDE in October. See KDE's [English Learner and Immigrant Resources webpage](#) and section G of the [Non-Regulatory Guidance](#) for more information and resources on serving immigrant students.

## Allowable Activities

The activities that provide enhanced instructional opportunities for immigrant children and youth may include the following:

- Family literacy, parent and family outreach, and training activities designed to assist parents and families to become active participants in the education of their children;
- Recruitment of, and support for, personnel, including teachers and paraprofessionals who have been specifically trained, or are being trained, to provide services to immigrant children and youth;
- Provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth;
- Identification, development, and acquisition of curricular materials, educational software, and technologies to be used in the program carried out with awarded funds;
- Basic instructional services that are directly attributable to the presence of immigrant children and youth in the LEA involved, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services;
- Other instructional services that are designed to assist immigrant children and youth to achieve in elementary schools and secondary schools in the United States, such as programs of introduction to the educational system and civics education; and
- Activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents and families of immigrant children and youth by offering comprehensive community services.

## Serving Eligible Private School Students

ESSA 8501 requires a district provide for the equitable participation of eligible private school students, their teachers, and other educational personnel in private schools located in areas served by the district. This requirement applies to both the EL and immigrant subgrants. Private schools are eligible to receive *services* under Title III, **not funds**. Title III funds may only be used for supplemental EL services that are reasonable, allocable, and allowable.

The [Title III Equitable Services to Private Schools Non-Regulatory Guidance](#) provides additional information on serving EL students in private schools.

## Declaration of Participation

Each spring, private schools must complete the Declaration of Participation indicating they wish to receive Title III services. The district must make reasonable attempts to contact all private schools within its boundaries to determine whether the private school intends to participate in the Title III program. The district should contact private school officials annually, even if the private school has declined Title III services in previous years.

## Consultation

Following the declaration of participation, the district must engage in timely and meaningful consultation with any private school officials who indicate their schools wish to receive Title III services. The consultation should occur in the spring of the prior school year to design and develop the Title III program, ensuring private school services are in place before the start of the school year. The following topics must be discussed during consultation:

- How students will be identified as ELs;
- How the needs of eligible ELs, their teachers, and other personnel will be identified;
- What services will be offered as well as the size and scope of those services;

- Whether services will include initial identification of ELs and assessment of their language proficiency, as well as a determination of whether students should exit EL status;
- How, where, and by whom the services will be provided;
- How the services will be assessed and how the results of those assessments will be used to improve the services;
- The amount of funding available to provide services; and
- How and when the LEA will make decisions about the delivery of Title III services, including a thorough consideration of the views of the private school officials on the provision of contract services through potential third-party providers.

The consultation must occur before the district makes any decisions regarding Title III services at the private school. Decisions made during the consultation meeting must be documented in the Title III section of the KDE [Consultation Agreement Forms Packet](#). Once all participating programs have completed their section of the packet, the entire packet should be uploaded to the GMAP District Document Library.

## Services

The services provided to eligible private school students must supplement and not supplant services the private school would otherwise offer if not receiving services under Title III. Services must be secular, neutral, and non-ideological. As private schools do not receive federal funds beyond those spent on students' equitable services, there are no other funds to supplant. Private schools are not required to meet the federal civil rights requirements outlined in the Dear Colleague Letter such as providing a core EL program, identifying and assessing potential ELs, and annually assessing ELP. This allows equitable service funds to be used for activities not permitted in public schools, such as providing the initial ELP assessment.

Services provided to staff and Title III-eligible students at participating private schools must be equitable to those provided to eligible students and staff at public schools in the district. USED's Office of Non-Public Education considers participation to be equitable if the district:

- Assesses, addresses, and evaluates the needs and progress of public and private school students and educational personnel on a comparable basis.
- Provides, in the aggregate, approximately the same amount of services to students and educational personnel with similar needs.
- Spends an equal amount of Title III funds to serve similar public and private school students and educational personnel.
- Provides both groups of students and educational personnel equal opportunities to participate in program activities.

The district, in consultation with the private school, determines the appropriate services based on the needs of identified students and their teachers or other educational personnel as well as the amount of Title III funds available for services based on the number of identified students at the private school.

## Time and Effort – Personnel Paid from Title III

Employees whose compensation is supported with Title III funds (or any federal funding source) must maintain appropriate records demonstrating the amount of time they worked on Title III. This applies to staff at the district and school level paid completely or partially from Title I funds. These records are often referred to as “time and effort” records. Time and effort logs must reflect an after-the-fact distribution of the actual activity of the employee.

Any federal cost, including salaries, must be allocable; that is, provide a benefit to the program that is proportionate to the relative benefits received. Federal funds can only pay for goods or services to the extent there is a chargeable benefit to the federal program.

[2 C.F.R. 200.430](#) states that the salaries and wages of employees who work on federal programs may be paid with federal funds as long as appropriate time distribution records are maintained. These records must:

- Be supported by a system of internal controls that provides reasonable assurance that the charges are accurate, allowable, and properly allocated;
- Be incorporated into official records;
- Reasonably reflect total activity for which the employee is compensated, not exceeding 100 percent of compensated activities;
- Encompass both federally assisted and all other activities compensated by the district on an integrated basis;
- Comply with the established accounting policies and practices of the nonfederal entity; and
- Support the distribution of the employee’s salary or wages among specific activities or costs objectives.

The frequency of reporting depends on whether an employee works on a single “cost objective” or multiple “cost objectives.” A cost objective refers to a federal program, mandated set-aside, statutory cap, or reservation of funds to which a grantee is required to track its funds. Each federal and non-federal program represents a separate cost objective; Title III is one cost objective and the district EL program is another cost objective.

### Personnel Working with One Cost Objective

District personnel whose salary is paid in whole from Title III funds must certify, on a semiannual basis (twice a year), that he/she worked solely on that program for the period covered. This is referred to as “semi-annual certification.” The certification must indicate the period covered by the certification and must be signed by the employee and the supervisor who has first-hand knowledge of the work performed.

### Sample Completed Semi-Annual Certification

Fiscal Year: <b>20XX</b>	Name of School District: <b>ABC District</b>
Employees who are expected to work solely on a single Federal program or cost objective, charges for their salary will be supported by periodic certifications that the employee worked solely on that program for the period covered by the certification. The certification will be prepared at least semi-annually and will be signed by the employee or supervisory official having firsthand knowledge of the work performed by the employee.	
I, <b>John Smith</b> , certify that 100% of my work time from <b>August 20XX</b> to <b>December 20XX</b> was spent on <b>Title III, Part A</b> duties and responsibilities.	
Employee Signature: <u>John Smith</u> Date: <u>01/01/20XX</u>	
Supervisor Signature: <u>Jane Doe</u> Date: <u>01/01/20XX</u>	

## Personnel Working with More than One Cost Objective

District personnel working with more than one federal program (or combination of federal and nonfederal programs) must maintain monthly Personnel Activity Report (PAR) of the number of hours the employee worked directly with Title III and other duties. The report must reflect an “after-the-fact distribution” of the employee’s actual activity and must account for the percentage of time for which the employee is paid from each program. The monthly activity report must be signed by the employee and supervisor who has first-hand knowledge of the work performed.

### Sample Completed PAR

PERSONNEL ACTIVITY REPORT (PAR) for District Personnel Working with More than 1 Program									
Employee Name: John Smith					Month: September 20XX				
Reporting Period	PROGRAM	PROGRAM	PROGRAM	TOTAL HRS PER DAY	Reporting Period	PROGRAM	PROGRAM	PROGRAM	TOTAL HRS PER DAY
Day of Month	Title III, Part A	District EL Program			Day of Month	Title III, Part A	District EL Program		
<b>1</b>	2	5		7	<b>16</b>				
<b>2</b>					<b>17</b>				
<b>3</b>					<b>18</b>	2	5		7
<b>4</b>					<b>19</b>	2	5		7
<b>5</b>	3	5		8	<b>20</b>	1	5		6
<b>6</b>	1.5	5		6.5	<b>21</b>	1	5		6
<b>7</b>	2	5		7	<b>22</b>		5		5
<b>8</b>		5		8	<b>23</b>				
<b>9</b>					<b>24</b>				
<b>10</b>					<b>25</b>	3	5		8
<b>11</b>	1	5		6	<b>26</b>	1	5		6
<b>12</b>	3	5		8	<b>27</b>	2	5		7
<b>13</b>	2.5	5		7.5	<b>28</b>	3	5		8
<b>14</b>		5		5	<b>29</b>	3	5		8
<b>15</b>	3	5		8	<b>30</b>				
					<b>31</b>				
<b>TOTALS 1-15</b>	18	50		68	<b>TOTALS 16-31</b>	18	50		68
This certifies that the employee has completed work during the time period for the federal programs as indicated.									
<b>Employee Signature:</b> <i>John Smith</i>					<b>Supervisor Signature:</b> <i>Jane Doe</i>				

## Substitute System for Personnel Activity Reports

Maintaining a monthly PAR has proved difficult and time-consuming for many employees in previous years. In September 2012, the U.S. Department of Education (ED) released guidance in a [letter to Chief State School Officers](#) that permits a state educational agency (SEA) to approve a local educational agency’s (LEA) substitute system for time and effort reporting that meets the elements outlined in the guidance. This guidance permits an employee working on multiple cost objectives to complete a semi-annual certification submitted along with an acceptable work schedule instead of a monthly PAR. In order for an employee working on more than one cost objective to be eligible to complete a semi-annual certification rather than a PAR, the following conditions must be met:

1. The employee works a schedule that includes multiple cost objectives;
2. The work on those multiple cost objectives is “predetermined” (i.e., a teacher’s lesson plan);

3. The employee is not permitted to work on different cost objectives at the exact same time on their schedule; and
4. The documentation of the employee's schedule (which is used in lieu of the PAR) must:
  - a. Indicate the specific activity or cost objective that the employee worked on for each segment of the employee's schedule;
  - b. Account for the total hours for which the employee is compensated during the period reflected on the employee's schedule;
  - c. Be certified at least semi-annually and signed by the employee and a supervisory official having firsthand knowledge of the work performed by the employee;
  - d. Include documentation and certifications for any revisions to an employee's established schedule that continue for a prolonged period with effective dates clearly indicated; and
  - e. Include documentation by the employee using a PAR that covers any periods for which significant deviations occur from the established schedule that require work on multiple activities or cost objectives at the same time.

If an employee working on multiple cost objectives is unable to meet these conditions, the employee must maintain a monthly PAR. In order for the LEA to use this alternate time and effort documentation, they must receive prior approval from the SEA. The request to use a substitute system for time and effort reporting must include the following information:

- Certification that only eligible employees will participate in the substitute system;
- Certification that the system used to document employee work schedules includes sufficient controls to ensure that the schedules are accurate as well as a description of those controls; and
- A full disclosure of any known deficiencies with the system or known challenges with implementing the substitute system.

Districts requesting to use a substitute system for time and effort reporting must submit this information to their [Title III Consultant](#) for review.

## Legal Background on EL Services

Federal Legislation	Significance
<b>Equal Protection Clause of the 14<sup>th</sup> Amendment (1868)</b>	States that equal protection of the laws cannot be denied to any person within its jurisdiction, regardless of immigration status.
<b>Title VI of the Civil Rights Act of 1964</b>	Specifically prohibits discrimination on the basis of race, color, or national origin in programs receiving federal funding. It has been interpreted to include the prohibiting of equal access to education because of a student's status as an English Learner.
<b>Bilingual Education Act of 1968</b>	First federal law directly addressing the education of language minority students. This act provided the first allocation of federal funds for this purpose. Reauthorized in 1994 as part of the Improving Schools Act. Renamed the English Language Acquisition, Language Enhancement, and Academic Achievement Act (Title III) under No Child Left Behind.
<b>Equal Educational Opportunities Act (EEOA) of 1974</b>	Prohibits states from denying equal educational opportunity by the failure of an educational agency to take appropriate action to overcome language barriers that impede equal participation by students in its instructional program.
<b>Lau v. Nichols (1974)</b>	Supreme Court case in which the court ruled students cannot be denied access in and participation in an educational program due to inability to speak or understand English. The court ordered that districts must take affirmative steps to overcome educational barriers faced by non-English speaking students.
<b>Castañeda v. Pickard (1981)</b>	Circuit Court ruling which set the criteria for examining EL programs. The court established a three-part test to evaluate the adequacy of a district's program for EL students: <ol style="list-style-type: none"> <li>1. Qualified teachers implementing sound theory (includes training of staff).</li> <li>2. Soundness of Educational Approach (effective teaching methods, including resources and personnel).</li> <li>3. School districts must evaluate their programs and make adjustments where needed to ensure language barriers are actually being overcome.</li> </ol>
<b>Plyler v. Doe (1982)</b>	Supreme Court ruling that public schools may not require Social Security Numbers from all students as this may expose undocumented status. Students are also not required to show an original birth certificate for enrollment. "Other reliable proof" such as a baptismal certificate, family Bible with dutiful records, or an affidavit would suffice in place of the birth certificate.
<b>January 7, 2015 Dear Colleague Letter</b>	Joint guidance developed by the Department of Justice (DOJ) and the Office of Civil Rights (OCR) that outlined state, district, and school legal obligations to providing services to EL students and families.
<b>Every Student Succeeds Act (ESSA) of 2015</b>	Replaced the No Child Left Behind Act (NCLB) and is a reauthorization of the 1965 Elementary and Secondary Education Act (ESEA).

## Hierarchy of Funding for English Learner Programs

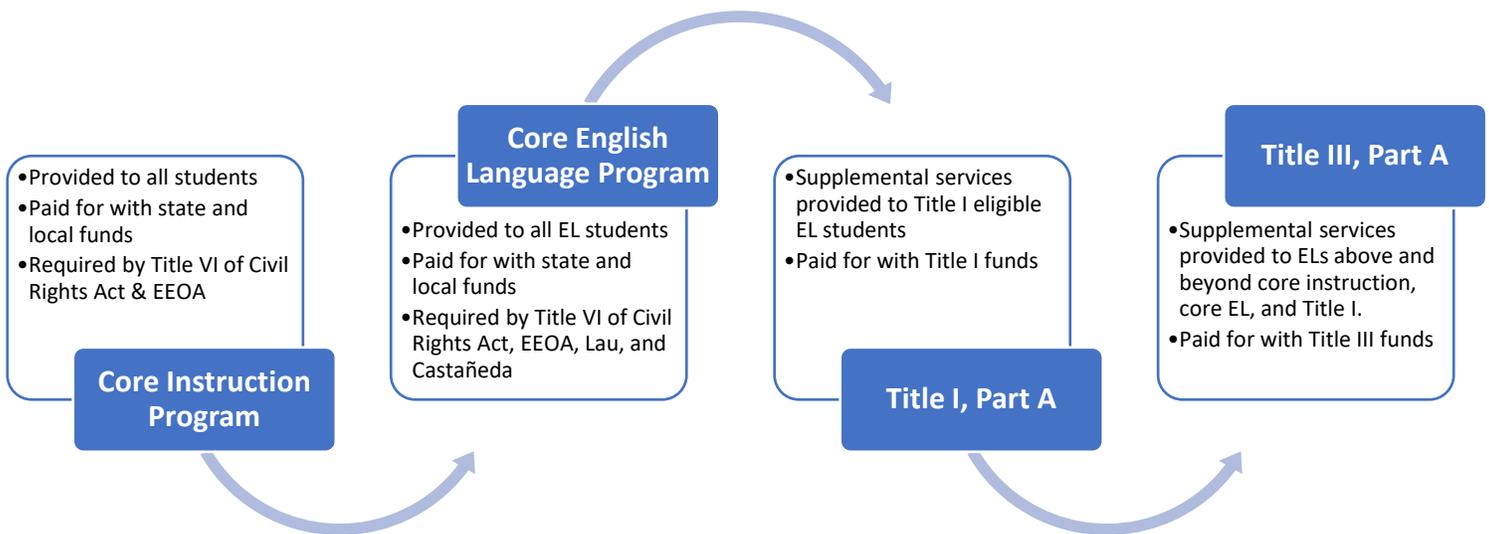
Districts must provide a core EL program prior to utilizing Title I and Title III funds for services. The following list outlines the succession of programs and funding sources used with ELs eligible for both Title I and Title III services.

**Core Instruction** – The core instruction program is provided to all students using state and local funds

**Core EL Program** – The core EL program is required by federal law (see *Lau 1974* and *Castañeda 1981*) and is provided to all EL students. The English development services provided in the core EL program are in addition to the core instruction program. State and local funds must be used to provide this program; federal funds (such as Title I and Title III) *cannot* be used to provide the core EL program.

**Title I, Part A** – The Title I, Part A program includes supplemental services for Title I eligible EL students. In a schoolwide program, all EL students are eligible. In a targeted assistance program, EL students are eligible using the same criteria as all students. Title I federal funds can be used to provide academic support to students (including ELs) to meet challenging state academic achievement standards. Districts may use Title I, Part A funds to provide an LIEP for Title I eligible EL students.

**Title III, Part A** – The Title III, Part A program provides supplemental language development services to all EL students regardless of Title I participation. The Title III program is above and beyond the core instruction, core EL program, and if applicable, Title I services. Districts are required to use Title III funds to provide EL programs, professional development, and parent, family, and community engagement activities. Once these requirements have been met, districts may not have enough Title III funding left to cover the EL requirements under Title I. Title III funds may be used to meet the Title I EL requirements *only* if all Title III requirements have been met.



## Definitions and Acronyms

**ACCESS for ELLs 2.0** – secure, large-scale, online English language proficiency assessment administered to Kindergarten through 12<sup>th</sup> grade students who have been identified as English learners (ELs) annually.

**Content Area Tutoring** – Programs that provide one-on-one or small group tutoring/assistance to ELs during school in the content areas, including English language arts, mathematics, science, and social studies. Tutoring is generally provided by teachers other than bilingual or ESL teachers and may be provided by an aide under the direction of a teacher.

**DOJ** – Department of Justice

**Dual Language Program** – Also known as **Two-way Immersion** or **Developmental Bilingual Education**, the goal of these bilingual programs is for students to develop language proficiency in two language by receiving instruction in English and another language in a classroom that is usually comprised of half native English speakers and half native speakers of the other language.

**EL** – English Learner; a student whose primary language is a language other than English. ESSA 8101(20) defines an EL as an individual:

- who is aged 3 through 21;
- who is enrolled or preparing to enroll in an elementary school or secondary school;
- who was not born in the United States or whose native language is a language other than English;
  - who is a Native American or Alaska Native, or a native resident of the outlying areas; AND
  - who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
  - who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; AND
- Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual
  - the ability to meet the state's proficient level of achievement on State assessments;
  - the ability to successfully achieve in classrooms where the language of instruction is English; or
  - the opportunity to participate fully in society.

**ELL** – English Language Learner is often used interchangeably with EL.

**ELP** – English Language Proficiency

**ELSWD** – English Learner Students with Disabilities

**English as a Second Language (ESL)** – An educational approach in which ELs are instructed in the use of the English language. Their instruction is based on a special curriculum that typically involves little or no use of the native language, focuses on language (as opposed to content) and is usually taught during specific school periods. For the rest of the school day, students may be placed in mainstream classrooms, an immersion program, or a bilingual education program.

**Content-based English as a Second Language** – This approach makes use of instructional materials, learning tasks, and classroom techniques from academic content areas as the vehicle for developing language, content, cognitive, and study skills. English is used as the medium of instruction.

**Pull-out ESL/Resource** – Programs which remove ELs from general education classes to pre-teach, teach, or re-teach English language skills and/or academic content covered by the general education classroom teacher.

**English Language Development** – Instruction designed specifically for ELs to develop their listening, speaking, reading, and writing skills in English. This type of instruction is also known as **English as a Second Language (ESL)**, **Teaching English to Speakers of Other Languages (TESOL)**, or **English for Speakers of Other Languages (ESOL)**.

**ESEA** – Elementary and Secondary Education Act (ESEA) was first enacted in 1965, is the principal federal law affecting K-12 education. *The Every Student Succeeds Act* is the most recent reauthorization of the ESEA.

**ESSA** – Every Student Succeeds Act

**Evidence-Based** – as defined by ESSA, “evidence-based” refers to an activity, strategy, or intervention that:

- Demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on: 1) strong evidence from at least one well-designed and well-implemented experimental study; 2) moderate evidence from at least one well-implemented and quasi-experimental study; or 3) promising evidence from at least one well-designed and well-implemented correlational study with statistical controls for selection bias.
- Demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes.
- Includes ongoing efforts to examine the effects of such activity, strategy, or intervention.

For more information on evidence-based practices, visit KDE’s [Evidence-based Practices webpage](#).

**FERPA** – Federal Educational Rights and Privacy Act

**Grant Management and Application Planning (GMAP)** – the system used by Kentucky districts to maximize the use of their grant dollars from federal non-competitive programs. GMAP allows districts to apply for and manage grant applications. GMAP also provides monitoring, approval, and reporting functionality for KDE staff. KDE’s [GMAP webpage](#) contains additional information on the program.

**Heritage Language Program** – A dual language program in which students are primarily English speakers with some proficiency in or a cultural connection to the partner language through family, community, or country of origin.

**HLS** – Home Language Survey

**IFEP** – Initially Fully English Proficient

**Immigrant Child or Youth** – ESSA 3201(5) defines immigrant children and youth as individuals who are aged 3 through 21; were not born in any state (including the 50 states, the District of Columbia, and Puerto Rico); and have not been attending one or more schools in any one or more states for more than 3 full academic years. *Not related to an individual’s legal status in the United States.*

**Lau Plan** – Name for the local English Learner Plan; the name is derived from the *Lau v. Nichols* ruling that requires services be provided to EL students to assist in overcoming educational barriers of limited English proficiency.

**LEA** – A Local Education Agency (LEA) is a public board of education or other public authority legally constituted within a state for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a state, or of/for a combination of school districts or counties that is recognized in a state as an administrative agency for its public elementary schools or secondary schools. In short, an LEA is the term used for a school district.

**LEP** – Stands for Limited English Proficient, the term used under NCLB and replaced with the more student-first term, English Learner under ESSA. LEP is oftentimes still used to describe the parents of ELs.

**LIEP** – Language Instruction Educational Program

**Maintenance Bilingual Education (MBE)** – Also referred to as **Late-exit Bilingual Education**, a program that uses two languages, the student’s primary language and English, as a means of instruction. The instruction builds upon the student’s primary language skills and develops and expands the English language skills of each student to enable them to achieve proficiency in both languages, while providing access to the content areas.

**NCELA** – The National Clearinghouse for English Language Acquisition (NCELA) was authorized under Title III to support USED in providing research and resources to provide high quality education for ELs. Visit the [NCELA webpage](#) for more information.

**Newcomer Program** – Separate, relatively self-contained educational interventions designed to meet the academic and transitional needs of newly arrived immigrants. Typically, students attend these programs before they enter more traditional interventions (e.g., English language development programs or mainstream classrooms with supplemental ESL instruction).

**OCR** – The Office of Civil Rights (OCR) is an office within USED. OCR’s mission is to ensure equal access to education and to promote educational excellence through vigorous enforcement of civil rights in our nation’s schools. OCR’s [Programs for English Language Learners webpage](#) has guidance on requirements for LEAs as well as resource materials for planning and self-assessment.

**OELA** – The Office of English Language Acquisition (OELA) identifies major issues affecting the education of ELs and assists and supports state and local systemic reform efforts to improve the achievement of ELs. Visit the [OELA webpage](#) for more information.

**PHLOTE** – Primary Home Language Other Than English

**Professional Development (PD)** – ESSA 8101(42) defines professional development as activities that are an integral part of school and LEA strategies for providing educators (including teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, and, as applicable, early childhood educators) with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the challenging state academic standards. Professional development is integral to a school strategy, part of a sustained program or continuum of service, and not as “stand-alone, 1-day, or short-term workshops.” Professional Development includes, but is not limited to, activities that:

- Improve and increase teachers’ knowledge of academic subjects.
- Are an integral part of broad school-wide and district-wide educational improvement plans;
- Give teachers and principals the knowledge and skills to help students meet challenging State academic standards;
- Improve classroom management skills;
- Are sustained, intensive, and classroom-focused and are not one-day or short-term workshops;
- Advance teacher understanding of effective instruction strategies that are based on scientifically based research; and
- Are developed with extensive participation of teachers, principals, parents, and administrators.

**PSP** – Program Service Plan

**RFEP** – Re-designated Fully English Proficient

**SEA** – State Education Agency

**Sheltered English Instruction** – An instructional approach used to make academic instruction in English understandable to EL students. In the sheltered classroom, teachers use physical activities, visual aids, and the environment to teach vocabulary for concept development in mathematics, science, social studies, and other subjects.

**SIOP** – Sheltered Instruction Observation Protocol

**Structured English Immersion Program** – The goal of this program is acquisition of English language skills so that the EL student can succeed in an English-only mainstream classroom. All instruction in an immersion strategy program is in English. Teachers have specialized training in meeting the needs of EL students, possessing either a bilingual education or ESL teaching credential and/or training, and strong receptive skills in the students’ primary language.

**Submersion Program** – Places EL students in a regular English-only program with little or no support services on the theory that they will pick up English naturally. This program should not be confused with a structured English immersion program.

**TESOL** – Teaching English to Speakers of Other Languages

**Transitional Bilingual Education (TBE) Program** – Also known as **Early-exit Bilingual Education**, this program utilizes a student’s primary language in instruction. The program maintains and develops skills in the primary language and culture while introducing, maintaining, and developing skills in English. The primary purpose of a TBE program is to facilitate the EL student’s transition to an all English instructional program while receiving academic subject instruction in the native language to the extent necessary.

**USED** – United States Department of Education

**W-APT** – WIDA ACCESS Placement Test

**WIDA** – Nonprofit cooperative group whose mission is to advance academic language development and academic achievement for children and youth who are culturally and linguistically diverse through high quality standards, assessments, research, and professional learning for educators. Formerly known as the World-Class Instructional Design and Assessment Consortium.

# Program Service Plan (PSP) Template

## Demographic Information

Student Name (Last, First, MI):

Student ID:

Current Address:

Date of Birth:

Gender:  Male  Female

Language(s) listed on HLS:

Additional Information:  Immigrant  Migrant  Refugee  Less than 3 years in U.S. school

Parent/Guardian Name (Last, First, MI):

Phone Number: Home      Work      Cell

Parent/Guardian Name (Last, First, MI):

Phone Number: Home      Work      Cell

Other Contact Name (Last, First, MI):

Relationship:

Phone Number: Home      Work      Cell

Home/School communication to parent guardian requested in:  English  Native language  Oral  Written

## Academic History

Last grade completed:	<input type="checkbox"/> Interrupted education	<input type="checkbox"/> Limited schooling	<input type="checkbox"/> No formal schooling
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If available, attach past academic data (report cards, standard assessments, etc.)

## Language Proficiency Test Information

### Initial Screener

Grade Level	Screener	Date	Score
Kindergarten	W-APT		
Grades 1-12	WIDA Screener Online (W-APT if before July 2017)		

Attach copy of HLS and score report to PSP

### Annual Language Proficiency Assessment Information

Enter scores for each time student takes the ACCESS for ELLs 2.0 assessment

Date of Test	Listening Score	Speaking Score	Reading Score	Writing Score	Oral Score	Literacy Score	Comprehension Score	Overall Score

Participation in the State-required Assessment and Accountability System

Date of entry to an English-speaking school:

Student will participate in:

<input checked="" type="checkbox"/>	Annual English Language Proficiency Assessment ( <b>ACCESS</b> )
<input type="checkbox"/>	State-required Assessment and Accountability Program: <input type="checkbox"/> Participation only <input type="checkbox"/> K-PREP accountable

Accommodations will be provided:

<input type="checkbox"/>	Reader
<input type="checkbox"/>	Scribe
<input type="checkbox"/>	Simplified language
<input type="checkbox"/>	Bilingual/English dictionary (word-to-word translations only)
<input type="checkbox"/>	Extended time
<input type="checkbox"/>	Oral native language support

Accommodations will **not** be provided

Please review [Inclusion of Special Populations Training](#) to ensure proper accommodations

EL Program Type and Enrollment

Date Identified EL:

Date Entered EL Program:

<input type="checkbox"/>	Parents waived services or withdrew student from services
<input type="checkbox"/>	Sheltered English Instruction
<input type="checkbox"/>	Content area tutoring
<input type="checkbox"/>	Pull-out ESL/Resource
<input type="checkbox"/>	Content-based ESL
<input type="checkbox"/>	Structured English Immersion (push-in)
<input type="checkbox"/>	Developmental bilingual education
<input type="checkbox"/>	Transitional bilingual education
<input type="checkbox"/>	Two-way immersion (Dual Language)
<input type="checkbox"/>	Student will also receive Special Education services (If yes, include information on how the program will meet IEP annual goals)

**With regular school attendance and parental support** it is anticipated that the student will exit from services for English Learners to **monitoring status** in \_\_\_\_ years.

**EXIT CRITERIA to RFP:**  ACCESS 2.0 English Language Proficiency Assessment (4.5 Overall)

Comments:

Date exited from EL Status:

Expected date of graduation (Grades 9-12 only):

Accommodations

Instructional Accommodations

- Read text in English
- Scribe response
- Bilingual/English dictionary
- Prompting/Cueing
- Provide visuals/organizers
- Use Spellcheck
- Provide content objectives
- Engage in academic conversations
- Meta-cognitive strategies
- Oral native language support

- Read text in primary language
- Extended time
- Small group/Single form test
- Adapted materials/technology
- Link instruction to prior learning
- Build background knowledge
- Scaffold responses
- Bilingual or English glossary
- Simplified language
- Assistive technology

- Adapt pace of instruction
- Use computer/software
- Model language/Task completion
- Interaction opportunities
- Provide language objectives
- Other programming accommodations to address individual strengths and needs:

**Assessment Accommodations**

- Reader
- Scribe
- Bilingual/English dictionary (word-to-word translation only)
- Oral native language support
- Extended time
- Simplified language

**Expected Rate of Transition:** With regular school attendance and parental support, it is anticipated that the student will transition to full participation in classrooms that are not tailored for EL students in \_\_\_\_\_ years.

**Parents’ Right to Opt Out & Notification**

**Parents’ Right to Opt Out:** As EL parent(s) I understand I have the right under Title VI and the Equal Education Opportunities Act (EEOA) to decline or opt my child out of the school district’s program for ELs or out of particular language services within the program. If I decline services, my child is still required to take the ACCESS 2.0 each year.

**Parent Notification:** Parent notification must be provided no later than 30 calendar days after the beginning of the school year or within the first two weeks of placement in the EL program if enrolled after the start of the school year. [ESSA 1112(e)(3)(A-B)]

**Program Service Plan Committee**

Signatures and dates of persons involved in the development of the Program Service Plan.

Name	Signature	Title	Date
		Parent	
		Principal	

# Exited English Learner Monitoring Form

Student Name: \_\_\_\_\_ SSID: \_\_\_\_\_

Years in EL Program: \_\_\_\_\_ Exit Date for EL Services: \_\_\_\_\_

Year of monitoring: 1st 2<sup>nd</sup> 3<sup>rd</sup> 4<sup>th</sup> Current Academic Year: \_\_\_\_\_

**Exiting ACCESS 2.0 for ELLs® Results:**

Overall	Listening	Speaking	Reading	Writing	Literacy	Comprehension	Oral Language

**Monitoring Staff**

Monitoring Year	Name of Classroom Teacher(s)	Name of EL Teacher	Name of EL Coordinator
1 <sup>st</sup> year			
2 <sup>nd</sup> year			
3 <sup>rd</sup> year			
4 <sup>th</sup> year			

**State Assessment Results**

Monitoring Year	Reading	Mathematics	Other
1 <sup>st</sup> year			
2 <sup>nd</sup> year			
3 <sup>rd</sup> year			
4 <sup>th</sup> year			

**Special Services/Programs**

Is the student receiving any special services/programs in addition to the standard academic program?  Yes  No

If yes, describe the services in the following chart:

Monitoring Year	Description of Special Services/Program
1 <sup>st</sup> year	
2 <sup>nd</sup> year	
3 <sup>rd</sup> year	
4 <sup>th</sup> year	

**Academic Performance**

Each year of monitoring, attach or include copies of the student’s mid-term and report cards in the monitoring folder. Each year, please document any concerns and actions taken below.

Grading Period	Mid-term/Report Card Concerns	Actions Taken

Grading Period	Mid-term/Report Card Concerns	Actions Taken

**Classroom Performance**

Each year the student’s content teacher(s) should rate the student’s classroom performance for each grading period. This documentation should be kept with the mid-terms.

**Monitoring Year:**            **Teacher:**

Rate the student’s performance in each of the following areas (1 = never 2 = seldom 3 = sometimes 4 = often 5 = always)	Grading Period 1	Grading Period 2	Grading Period 3	Grading Period 4
The student completes assignments on-time.				
The student communicates effectively with teacher.				
The student participates effectively in class projects				
The student participates effectively in class discussions.				
The student is able to work independently.				
The student attends class regularly.				
The student displays effort and enthusiasm in class.				
The student requires additional assistance with assignments.				
The student shows evidence of difficulty with language.				
The student has discipline problems that interfere with his/her academic progress.				

Have EL strategies been implemented to respond to the language needs of the former EL?  Yes  No

If yes, provide details:

Do you recommend that this student be reassessed for reclassification as an EL?  Yes  No

*(Re-assessment must be done using a valid and reliable, grade-appropriate ELP test to determine if there is a persistent language barrier)*

Signature:

OELA Toolkit: [Monitoring and Exiting English Learners from EL Programs and Services](#)