



Kentucky Department of  
**EDUCATION**

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* [Reference [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 of any grade, academic proficiency, or socioeconomic level. 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 and Title I also 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. [Jan. 7, 2015, Dear Colleague Letter](#) provides a 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. The Lau Plan must be uploaded in Cognia's Continuous Improvement Platform annually as part of the Lau Plan diagnostic and should also be posted on the district's website.**

## 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
- 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.

## 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 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 and 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 parents.<sup>1</sup>

For more information on these legal obligations, reference the [Jan. 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. Reference the [Information for Limited English Proficient \(LEP\) Parents and Guardians and for Schools and School Districts that Communicate with Them](#) fact sheet provided by these two agencies.

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.

### 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. The Lau Plan must be uploaded to Cognia and posted on the district's website by **May 1** annually. 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.

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

Districts are not required under federal and state law to use a specific curriculum or educational approach to serve EL students. However, the district must provide an effective Language Instruction Educational Program (LIEP) to meet the needs of ELs and demonstrate 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 or when EL's opt-out of services
- EL program evaluation

The Lau plan should be a dated and signed document by all Lau team members.

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 consider 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 [Jan. 7, 2015, 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 English Learner Toolkit, [Evaluating the Effectiveness of a District's EL Program](#), contains 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](#). 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 the [Code of Federal 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 <i>English Learner (EL)</i> Extract and <i>Title III Immigrant</i> report in Infinite Campus for federal reporting (English Learner Enrolled and Served <i>as of Oct. 1</i> ).
Second Tuesday in October	KDE extracts Immigrant data from Infinite Campus for Immigrant Subgrant allocations.
Mid to Late October	KDE extracts EL data from Infinite Campus for federal reporting requirements and ACCESS pre-code labels.
October	Declaration of Participation forms distributed to private school officials to identify private schools interested in receiving Title III services. Forms can be found on KDE's Declaration of Participation <a href="#">website</a> .
February	<a href="#">Declaration of Participation</a> due in GMAP.
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.
Spring	Complete Activities Serving ELs in LEAs receiving Title III Funds Survey used for Consolidated State Performance Report submission. Reference the <a href="#">Consolidated State Performance Report Instructions</a> .
Spring	All districts must complete the <i>Title III Intent to Participate</i> and <i>OCR Assurances</i> in GMAP for the upcoming school year. Each district must select one of the following options for the Intent to Participate: <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>
Spring	Preliminary Title III funding allocations will be uploaded into GMAP.
May 1	Districts must complete <i>Lau Plan</i> diagnostic in Cognia's Continuous Improvement Platform.  District Data Verification for English Learner and Immigrant opens. Districts must resolve data errors using the English Learner report and Title III Immigrant report to ensure accuracy of data. <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>
After State Testing – June 30	Update student EL records for students who have reached attainment on current year ACCESS as follows: Update Program Status to Exited EL. Enter Program Exit Date as 6/30 of the year in which attainment is reached. End date all EL Services as 6/30 of the year in which attainment is reached. End date all EL Accommodations as 6/30 of the year in which attainment is reached.
June 30	District Data Verification for English Learner and immigrant closes. All English Learner and immigrant data should be complete and accurate in Infinite Campus.
July 1	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 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 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 WIDA Screener for Kindergarten, WIDA Screener Online (grades 1-12) and annual English Proficiency Assessment of ACCESS can be found on KDE's ACCESS for ELLs [website](#).

#### 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 but should only be given to a student to determine initial EL identification and placement.

[WIDA Screener for Kindergarten](#) is an individually administered paper-and-pencil test that helps educators identify students as English Learners (ELs). It is typically given to students one time when they enter a school or district upon entry into kindergarten or first-semester Grade 1. Kindergarten and first-semester Grade 1 ELs only take the listening and speaking domains. Test materials are available on the WIDA Screener for Kindergarten [website](#). Districts must enter their ACCESS username and password to view and print the files.

The [WIDA Screener Online](#) is given to potential EL students in second-semester Grade 1 through Grade 12. Students will complete four domain tests (Listening, Reading, Speaking, Writing). Test scores are used to assist educators in identifying students as EL; the purpose of this assessment is to help educators make decisions about whether a student is a candidate for English language support services. WIDA Screener is not intended for use as a summative or diagnostic assessment.

Districts must enter WIDS screener assessment details into the student record of Infinite Campus (IC). Reference section B of the [English Learners Data Standard](#).

#### 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](#). 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 assessment, 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, instructions and testing dates relevant to administering the ACCESS assessments.

KDE will import annual ACCESS assessment details into the student record of Infinite Campus (IC). Reference section B of the [English Learners Data Standard](#).

### Alternate ACCESS for ELLs

The [Alternate ACCESS for ELLs](#), sometimes referred to as Alt ACCESS, is a large-print, paper-based test individually administered to ELs in grades K-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 team must determine which assessment the student should take and whether accommodation is required. IEP teams should follow their state's specific alternate assessment participation criteria. WIDA's [Alternate ACCESS for ELLs Participation Decision Tree](#) provides additional guidance on eligibility for the Alternate ACCESS.

KDE will import annual ALT ACCESS assessment details into the student record of Infinite Campus (IC). Reference section B of the [English Learners Data Standard](#).

### 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 KDE's Assessment Regulations Training [website](#). 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 Growth Opportunities](#) to its member states. Learning opportunities are offered 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 criteria 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 based on 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 (HLS)

KDE's [Home Language Survey \(HLS\) template](#) must be utilized for identification of potential English learner students ([703 KAR 5:070](#)). The HLS should only be administered upon **initial** entry into a Kentucky public school and should not be administered when a student transfers from one district to another. Reference section F of the [English Learners Data Standard](#) for importing English Learner records from a previous Kentucky district upon transfer. Section F of the [English Learners Data Standard](#) also provides guidance for students transferring from another state.

The HLS must be completed by the student's parent/guardian. Chapter 1 of the English Learner Toolkit, [Tools and Resources for Identifying all English Learners](#), 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. Reference the [Fact Sheet: Information on the Rights of All Children to Enroll in School](#) for additional information on what can and cannot be requested upon a child's enrollment in school.

## Foreign Exchange Students

A foreign exchange student would not be exempt from the EL screener. If the student has a Home Primary Language other than *English*, they should be screened and provided EL services/accommodations if they do not score 4.5+ on the assessment. Reference the highlighted portion of the [Info Bulletin Serving Foreign Exchange Students](#). This portion states that under ESEA an exchange student would not be exempt from any Title I required assessment, specifically, in the case, of the annual state English language proficiency assessment.

An EL student who happens to be a foreign exchange student would also be included in a district's count of EL students for purposes of allocating funds under Title III section 3114(a) of the ESEA.

## EL Identification Process

**Step One:** Administer the [Home Language Survey \(HLS\)](#) to all students upon **initial** enrollment into a Kentucky public school.

**Step Two:** Review the responses on the HLS. If all responses on the HLS are *English*, no additional action needs to be taken. The student is not considered an EL. If any of the answers on the HLS are a language other than *English*, the student would be considered a "potential EL" and must be screened.

### Kindergarten or first-semester Grade 1 - Administer the *WIDA Screener for Kindergarten*

A kindergarten or first-semester Grade 1 student who has taken the [WIDA Screener for Kindergarten](#) test must be enrolled as an EL student, regardless of the screener score results in accordance with the [Kentucky EL Identification and Placement Guidance](#). Although parents may decline EL services, kindergarten students may not exit EL status until receiving a 4.5 or higher overall composite score on the ACCESS for ELLs test.

### Grades 1-12 - administer the *WIDA Screener Online*

If the student in grades 1-12 scores a 4.5 or higher 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.

Section G of the [Jan. 7, 2015, Dear Colleague Letter](#) provides additional guidance regarding meeting the needs of students who have opted out of the EL program or a particular EL service within an EL program.

Section C of the [English Learners Data Standard](#) provides information on program status and how to date student records.

**Step Three:** Notify parent(s) of placement in the language instruction educational program (LIEP). Reference [Parent Notification Timelines](#) guidance and the [Parent Notification section](#) of this document for additional information.

## Program Services Plan

Students receiving EL services must have a Program Service Plan (PSP) in place. According to ESSA section 1112(c)(3)(A), parental notification should include the following (among other requirements):

- I. the methods of instruction used in the program in which their child is, or will be, participating and the methods of instruction used in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction;
- II. how the program in which their child is, or will be, participating will meet the educational strengths and needs of their child; and
- III. how such program will specifically help their child learn English and meet age-appropriate academic achievement standards

for grade promotion and graduation.

As the requirement for parental notification includes the methods of instruction used in the program in which their child is placed and how the program will meet the student's needs, the decision about program placement should occur before the parental notification is sent. This means the creation of the PSP should fall within the 30 calendar days from the beginning of the school year. KDE recommends that an attempt at parent collaboration should be made within this timeframe, for example, an invitation to a PSP meeting sent, however parent collaboration on the PSP can continue beyond the parent notification deadline.

KDE's [Program Services Plan \(PSP\) for English Learners template](#) outlines all information required to be on the PSP. This template is the form available for use as an IC custom form.

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 (WIDA Screener for Kindergarten/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)
- 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 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 students' PSP. KDE recommends regular review of the student's PSP and update as needed based on the student's needs. There is no required timeline provided by ESSA so this would be a local district decision.

## EL Student Misidentification

Removal of a student's EL designation before the student scores proficient on the ELP assessment is rare and each scenario should be evaluated on an individual basis. KDE staff will provide guidance and are available to assist districts with any questions regarding specific cases of misidentification. However, the district is responsible for determining if a misidentification has occurred and making the necessary corrections if applicable. Reference KDE's guidance on [Addressing the Misidentification of Students as English Learners](#) for final determination, prevention and updating of IC student record.

## Student Exit Criteria

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 (CPL) on a Tier B/C ACCESS for ELLS® or P2 on ALT ACCESS. The online version of ACCESS for ELLs is an adaptive test in which a student's performance as they progress through the test determines the questions shown 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 using Tier A, ACCESS for ELLS®. Students taking the Alternate ACCESS for ELLs must score a P2 or higher Overall Composite to exit EL status.

Kentucky's exit criteria can also be found in the [ACCESS for ELLs Online Checklist](#). The **Program Exit Date** will be June 30 of the school year in which the student reaches attainment on ACCESS or ALT ACCESS in accordance with the [English Learners Data Standard](#).

## 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; and
- 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.

The district must collect data on the academic performance of EL Monitored 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. This form can be downloaded from KDE's English Learner and Immigrant Resources [website](#). Chapter 8 of the English Learner Toolkit, [Tools and Resources for Monitoring and Exiting EL From EL Programs and Services](#), provides tools and resources on monitoring exited ELs. The following guidelines are based on information found in chapter 8 of the English Learner Toolkit. also provides tools and resources on monitoring exited 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 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 assist 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 monitored according to the frequency guidelines set by the district (e.g., weekly, quarterly, each semester);
- ACCESS for ELLs score sheets verifying the students who met Kentucky's exit criteria;
- The students' 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 (first year, second year, third year, fourth year) to ensure that any academic deficits incurred due to participation in a language assistance program are recouped.

### Re-Entry Procedures

If an exited EL is not progressing academically as expected and monitoring suggests a continuing language issue, district 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 (Reference the [Kentucky EL Identification and Placement Guidance](#) and the [Non-Regulatory Guidance: English Learners and Title III](#), 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. Reference KDE's [English Learner Re-Entry Procedures](#) for additional information.

## English Learner Students with Disabilities (ELSWD)

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 [Jan. 7, 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 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 to avoid misclassification. Students cannot be identified or determined to have disabilities based on English language

proficiency.

Collaboration between the special education and English language departments is crucial in serving ELSWD. IDEA requires the IEP team to 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 English Learner Toolkit, [Tools and Resources for Addressing English Learners with Disabilities](#), contains additional information on serving ELSWD.

Further information can be found on KDE's English Learners with Disabilities [website](#).

## Reporting Requirements

### English Learner Reporting

Student data is collected and reported to KDE by each school district via Infinite Campus (IC). English Learner and immigrant data are reported annually to the USED by KDE. English learner data are reported publicly on KDE's [School Report Card](#). Districts must generate the English Learners extract in IC on a regular basis throughout the school year to check for critical errors. Critical errors include: EL students without an active EL Service, without an active EL instructional accommodation and/or a home language listed as *English*. Information on how to correct the critical errors can be found in the [English Learners Data Standard](#).

The USED requires data on all EL students enrolled in districts on Oct. 1. KDE will extract the data from IC state edition using the start and end date of Oct. 1 annually.

KDE's Office of Assessment and Accountability extracts EL student data mid- to late-October to provide to the vendor producing ACCESS pre-code labels.

KDE will extract the English Learners extract on the second Tuesday in March to determine *preliminary* district EL counts for Title III allocations. Districts must also complete the *Intent to Participate* in GMAP by Spring to determine the Title III districts and consortiums.

KDE will extract the English Learners report to update district EL counts to determine SEEK and final Title III funding allocations. Districts must check and resolve any critical errors prior to June 30 annually to ensure the accuracy of this data.

Districts should refer to the [English Learners Data Standard](#) for guidance on entering EL data into IC and reporting timelines.

### Immigrant Reporting

The *Title III Immigrant Report* must also be generated periodically to validate 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. (Elementary and Secondary Education Act (ESEA) Section 3114(d)). Additional immigrant data may be requested from districts for verification.

Districts should refer to the [Immigrant Data Standard](#) for guidance on entering immigrant data into IC and reporting timelines.



## 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 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 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 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.</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 as the annual ELP assessment.</b></p>
<b>Accountability: English Learner Subgroup</b> <i>ESSA 1111(b)(3)(B)</i>	<p>ELs in monitoring status are to be included in the EL subgroup for accountability purposes for four years. Prior to ESSA, they were included for only two 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 on the academic performance of the EL subgroup.</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: English Learners and Title III](#) 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 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.

## Parent Notification Timelines

### Continued EL Notification

Districts have 30 calendar days from the start of school to notify parents of a student's continued inclusion in the language instruction educational program (LIEP) for the academic year based on the previous year EL assessment scores. Reference [ESSA 1112\(e\)\(3\)\(A\)](#).

### Initial EL Identification

For students newly enrolled at the start of the school year, districts have 30 calendar days to ensure proper identification of EL status, using Home Language Survey and appropriate EL Screener and to notify the parent of placement in the language instruction educational program (LIEP). Reference [ESSA 1112\(e\)\(3\)\(A\)](#).

For students identified after the start of the school year, districts have 30 calendar days to ensure proper identification of EL status, using the Home Language Survey and appropriate EL Screener. Then districts have an additional 14 calendar days to notify the parent of placement in the language instruction educational program (LIEP). Reference [ESSA 1112\(e\)\(3\)\(B\)](#).

### 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, 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 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 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 [Reference 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. Reference question A-15 of the [Non-Regulatory Guidance: English Learners and Title III](#) for additional information on forming a consortium. Districts should refer to the [Process for Forming and Maintaining an Effective Consortium](#) for additional information. Title III funds are supplemental to local, state, and federal funds and therefore cannot be used to meet any of the civil rights requirements [Reference 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;
- 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). Two percent of the Title III allocation may be used for administrative expenses. A survey is sent out annually to districts and consortium districts that receive the Title III subgrant to collect data on the activities serving ELs to report in the state's Consolidated Performance Report to the USED.

### 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 three 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 the percentage or number of immigrant children and youth who have enrolled in schools in the LEA in the current fiscal year compared to the average of the last two fiscal years. 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 January annually. Reference KDE's English Learner and Immigrant Resources [website](#) and section G of the [Non-Regulatory Guidance: English Learners and Title III](#) for additional 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 to 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 year, private schools must complete the [Declaration of Participation Form](#) 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. Reference KDE's Declaration of Participation [website](#) for additional information.

### 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 KDE's [Equitable Services Consultation Packet](#). Once all participating programs have completed their section of the packet, the entire packet should be uploaded to the District's Document Library in GMAP.

## 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.

The [Code of Federal Regulations](#), 200.430, states that the salaries and wages of employees who work on federal

programs may be paid with federal funds if 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% 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 cost 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>
<p>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 supervisor official having firsthand knowledge of the work performed by the employee.</p> <p>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.</p> <p>Employee Signature: <u>John Smith</u> Date: <u>01/01/20XX</u></p> <p>Supervisor Signature: <u>Jane Doe</u> Date: <u>01/01/20XX</u></p>	

## 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		
1	2	5		7	16				
2					17				
3					18	2	5		7
4					19	2	5		7
5	3	5		8	20	1	5		6
6	1.5	5		6.5	21	1	5		6
7	2	5		7	22		5		5
8		5		8	23				
9					24				
10					25	3	5		8
11	1	5		6	26	1	5		6
12	3	5		8	27	2	5		7
13	2.5	5		7.5	28	3	5		8
14		5		5	29	3	5		8
15	3	5		8	30				
					31				
TOTALS 1-15	18	50		68	TOTALS 16-31	18	50		68
This certifies that the employee has completed work during the time period for the federal programs as indicated.									
Employee Signature: <u>John Smith</u>					Supervisor Signature: <u>Jane Doe</u>				

## Substitute System for Personnel Activity Reports

Maintaining a monthly PAR has proved difficult and time-consuming for many employees in previous years. On September 2012, the USED released guidance in a [Letter to Chief State School Officers](#) that permits a state educational agency (SEA) to approve a local educational agency's 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. 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. For the LEA to use this alternate time and effort documentation, they must receive prior approval from the state educational agency (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 the KDE's Title III consultant for review.

## Legal Background on EL Services

Federal Legislation	Significance
<b>Equal Protection Clause of the 14th 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 based on 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>	<p>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:</p> <ul style="list-style-type: none"> <li>Qualified teachers implementing sound theory (includes training of staff).</li> <li>Soundness of Educational Approach (effective teaching methods, including resources and personnel).</li> <li>School districts must evaluate their programs and adjust where needed to ensure language barriers are being overcome.</li> </ul>
<b>Plyler v. Doe (1982)</b>	<p>Supreme Court ruling that public schools may not require SSN from all students as this may expose undocumented status.</p> <p>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.</p>
<b>Jan. 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 (reference Lau 1974 and Castañeda 1981) and is provided to all EL students. The English development services provided in the core EL program is in addition to the core instructional 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**– secure, large-scale, online English language proficiency assessment administered to kindergarten through 12th grade students who have been identified as English learners annually.

**Content Area Tutoring (CAT)** – 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.

**Content-Based ESL (CBE)** – 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.

**Developmental Bilingual Education (DBE)** - defined on the California Department of Education, Multilingual Education [website](#) as a program that provides instruction for English learners utilizing English and students' native language for literacy and academic instruction, with the goals of language proficiency and academic achievement in students' first and second languages. This program is typically found in kindergarten through grade eight.

**DOJ** – Department of Justice

**Dual Language/Two-Way Immersion (TWI)** – the goal of these bilingual programs is for students to develop language proficiency in two languages 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 schoolday, students may be placed in mainstream classrooms, an immersion program or a bilingual education program.

**English Language Development (ELD)** - 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 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 additional information on evidence-based practices, visit KDE’s Evidence-based Practices [website](#).

**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 [website](#) contains additional information on the program.

**Heritage Language (HLA)** - defined on the California Department of Education, Multilingual Education [website](#) as a program that provides instruction in English and another language for non-English speakers or students with limited literacy skills in their first language. Indigenous language programs support endangered minority languages in which students may have limited receptive and no productive skills. Both programs often serve American Indian students. This program is typically found in kindergarten through grade twelve.

**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 three 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 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

**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 [website](#) for more information.

**Newcomer Program (NEW)** – 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 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 Equal Educational Opportunities for English Learners [website](#) has guidance on requirements for LEAs as well as resource materials for planning and self-assessment.

**OELA** – The Office of English Language Acquisition 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's [website](#) for additional information.

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

**Pull-Out ESL Resource (POE)** – A program of techniques, methodology and special curriculum designed to teach EL students English language skills, which may include listening, speaking, reading, writing, study skills, content vocabulary, and cultural orientation. 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. *Sometimes referred to as English Language Development.*

**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 districtwide 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 Services Plan

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

**SEA** – State Education Agency

**Sheltered English Instruction (SEI)** – 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.

**Structured English Immersion (SEM)** – 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.

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

**Transitional Bilingual Education (TBE)** – 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

**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.