

# **Resource Guide: Accountability for English Learners under the ESEA**

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## **NON-REGULATORY GUIDANCE**



**January 2017**

## **Purpose of this Guidance**

The U.S. Department of Education (Department) has determined that this guidance is significant guidance under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007). See [www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-07.pdf](http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-07.pdf). Significant guidance is non-binding and does not create or impose new legal requirements. The Department is issuing this guidance to provide States and local educational agencies (LEAs) and other stakeholders with information to assist them in meeting their obligations under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), and implementing regulations (34 C.F.R. §§ 200.13; 200.14; and 200.16) that it enforces. This guidance also provides members of the public with information about their rights under the law and regulations.

If you are interested in commenting on this guidance, please email us your comment at [OESEGuidanceDocument@ed.gov](mailto:OESEGuidanceDocument@ed.gov) or write to us at the following address: U.S. Department of Education, Office of Elementary and Secondary Education, Office of State Support, 400 Maryland Avenue, S.W., Washington, D.C. 20202. For further information about the Department's guidance processes, please visit [www2.ed.gov/policy/gen/guid/significant-guidance.html](http://www2.ed.gov/policy/gen/guid/significant-guidance.html).

The Department does not mandate or prescribe practices, models, or other activities in this non-regulatory guidance document. This guidance contains examples of, adaptations of, and links to resources created and maintained by other public and private organizations. This information, informed by research and gathered in part from practitioners, is provided for the reader's convenience and is included here to offer examples of the many resources that educators, parents, advocates, administrators, and other concerned parties may find helpful and use at their discretion. The Department does not control or guarantee the accuracy, relevance, timeliness, or completeness of this outside information. Further, the inclusion of links to items and examples do not reflect their importance, nor are they intended to represent or be an endorsement by the Department of any views expressed, or materials provided.

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## **Notice to Limited English Proficient Persons**

If you have difficulty understanding English, you may request language assistance services for Department information that is available to the public. These language assistance services are available free of charge. If you need more information about interpretation or translation services, please call 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-437-0833); e-mail us at [ed.language.assistance@ed.gov](mailto:ed.language.assistance@ed.gov); or write to: U.S. Department of Education, Information Resource Center, LBJ Education Building, 400 Maryland Ave. S.W., Washington, DC 20202.

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## Introduction

English learners (ELs) are among the fastest-growing populations of students in our nation's public schools. This diverse subgroup of approximately 4.5 million students brings important cultural and linguistic assets to the public education system, but also faces a greater likelihood of lower graduation rates, academic achievement, and college enrollment than their non-EL peers.

The enactment of the Every Student Succeeds Acts (ESSA), which reauthorized the Elementary and Secondary Education Act (ESEA), provides a valuable opportunity for States to reshape their accountability systems to support improved outcomes for ELs. In particular, the ESSA requires States to more fully include ELs in school-level accountability systems under Title I instead of the separate district-level accountability systems required under Title III of the previous iteration of the ESEA, amended by the No Child Left Behind Act of 2001 (NCLB). While the ESEA<sup>1</sup> requires that States include the performance of ELs in setting goals for reading/language arts and mathematics in statewide accountability systems (as did the ESEA, as amended by NCLB), the statute and regulations now also require that States include goals in their accountability systems related to EL progress in attaining English language proficiency (ELP), based on the State's ELP assessment (ESEA section 1111(c)(4)(A)(ii); 34 C.F.R. § 200.13(c)). Moreover, the ESEA and its regulations also allow States flexibility in establishing goals and targets for the progress and performance of ELs toward attaining ELP over time that take into account the diverse characteristics of their EL students. The ESEA now also requires each State to include an indicator for progress in attaining ELP in its statewide accountability systems (ESEA section 1111(c)(4)(B)(iv); 34 C.F.R. 200.14(b)(4)).

Additionally, new reporting requirements under Title III of the ESEA will improve transparency on academic outcomes for ELs. States will now be required to report disaggregated data on ELs with disabilities, the academic achievement of former ELs, and the number of ELs who have been receiving services for five or more years and have not yet attained ELP (*i.e.*, long-term ELs) (ESEA section 3121). For a summary of these significant differences between NCLB and ESSA, refer to the table on the following page.

This guidance focuses on the inclusion of ELs in the statewide accountability system under the ESEA and accompanies the final regulations on accountability and data reporting under Title I and State plans, including consolidated State plans,<sup>2</sup> and the Frequently Asked Questions related to these regulations.<sup>3</sup> The Department encourages State educational agencies (SEAs) and LEAs to read this guidance in conjunction with those documents. This guidance begins with topics related to the inclusion of progress in attaining ELP within statewide accountability systems (namely, the establishment of State long-term goals and measurements of interim progress (MIPs) and the Progress in Achieving ELP indicator), and then addresses the inclusion of particular sub-populations within the EL subgroup (EL students with particular disabilities, recently arrived ELs, and former ELs) in the accountability system.

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<sup>1</sup> Unless otherwise stated, all references to ESEA in this document are to the ESEA, as amended by the ESSA.

<sup>2</sup> To support States, LEAs, and schools in their implementation of the ESEA, on November 29, 2016, the Department issued [Final Regulations](#) regarding the requirements for accountability systems and interventions under section 1111 of the ESEA (81 FR 86076, 86076-86248).

<sup>3</sup> See "[Accountability Under Title I, Part A of the ESEA: Frequently Asked Questions.](#)"

This guidance is intended to assist States in developing robust, multi-measure statewide accountability systems that meaningfully include all ELs while recognizing the diversity within the EL population and meeting all applicable statutory and regulatory requirements. It also provides clarifying information and examples. For additional guidance on Title I and Title III EL requirements, see “[English Learners and Title III of the Elementary and Secondary Education Act \(ESEA\), as amended by the Every Student Succeeds Act \(ESSA\).](#)”

### Comparing EL Provisions in NCLB and ESSA

Topic	ESEA, as amended by the NCLB, and previous regulations	ESEA, as amended by the ESSA, and new regulations
Accountability for ELs	A separate <b>district-level accountability system</b> under Title III for English language progress and proficiency, in addition to inclusion of ELs as a subgroup for measuring student achievement on the content assessments in the State accountability system under Title I (ESEA, as amended by NCLB, section 3122)	States fully incorporate ELs into general requirements for <b>school-level accountability</b> under Title I. Each State must establish a multi-measure accountability system that includes five indicators for all schools, except as noted for particular grade spans: (1) Academic Achievement; (2) Academic Progress (elementary and middle schools); (3) Graduation Rate (high schools); <b>(4) Progress in Achieving ELP</b> ; and (5) At least one School Quality or Student Success indicator (ESEA, as amended by ESSA, section 1111(c)(4)(B); 34 C.F.R. § 200.14(b)).
Progress towards attaining ELP on the ELP assessment	<b>Annual Measurable Achievement Objective (AMAO) 1</b> (ESEA, as amended by NCLB, section 3122(a)(3)(A)(i))	States must include <b>long-term goals and measurements of interim progress</b> related to ELP progress <u>and</u> a <b>Progress in Achieving ELP indicator</b> (based on the State’s ELP assessment) in their accountability systems (ESEA, as amended by ESSA, sections 1111(c)(4)(A)(ii) and 1111(c)(4)(B)(iv); 34 C.F.R. §§ 200.13(c) and 200.14(b)(4)).
Attainment of ELP on the ELP assessment	<b>AMAO 2</b> (ESEA, as amended by NCLB, section 3122(a)(3)(A)(ii))	States may also include a measure of student <b>attainment of ELP</b> in the indicator (34 C.F.R. § 200.14(b)(4)(iii)).
Performance of the EL subgroup on reading/language arts and mathematics assessments	<b>AMAO 3 and inclusion in Title I as a subgroup</b> (ESEA, as amended by NCLB, section 3122(a)(3)(A)(iii))	States must set long-term goals and measurements of interim progress, and measure the Academic Achievement indicator, for <b>the EL subgroup for reading/language arts and mathematics</b> in State accountability systems (ESEA, as amended by ESSA, sections 1111(c)(4)(A)(i) and 1111(c)(4)(B); 34 C.F.R. §§ 200.13(a)(1)(i) and 200.14(b)(1)(i)(B)).
Uniform procedures for setting goals and	States permitted to consider <b>only time in</b>	States must take into account a student’s <b>initial ELP level</b> and may take into account <b>one or</b>

Topic	ESEA, as amended by the NCLB, and previous regulations	ESEA, as amended by the ESSA, and new regulations
targets for progress of ELs toward ELP	<b>language instruction educational programs (LIEPs)</b> (ESEA, as amended by NCLB, section 3122(a)(2)(A))	<b>more of the following student characteristics:</b> <ul style="list-style-type: none"> <li>• Time in LIEPs;</li> <li>• Grade level;</li> <li>• Age;</li> <li>• Native language proficiency level; and</li> <li>• Limited or interrupted formal education, if any (34 C.F.R. § 200.13(c)(2)(i)).</li> </ul>
Inclusion in accountability system of ELs with a disability precluding assessment in all domains	ESEA, as amended by NCLB, and regulations were silent on this issue	States must <b>include all ELs in the Progress in Achieving ELP indicator</b> , including the performance of an EL with a disability that precludes assessment in one or more domains on the ELP assessment (such that there are no appropriate accommodations for the affected domain(s)), based on the remaining domains (34 C.F.R. § 200.16(c)(2)).
Inclusion of former ELs	States permitted to include former ELs in the EL subgroup for purposes of calculating adequate yearly progress (AYP) for up to <b>two years</b> (previous 34 C.F.R. § 200.20(f)(2))	States may include the reading/language arts and mathematics assessment results for former ELs in the EL subgroup for up to <b>four years</b> when calculating performance on indicators that use results from those assessments, as long as the State does so in a uniform manner ( <i>i.e.</i> , includes all former ELs for the same State-determined length of time) (ESEA, as amended by ESSA, section 1111(b)(3)(B); 34 C.F.R. § 200.16(c)(1)).
Inclusion of recently arrived ELs	States permitted to exclude a recently arrived EL from one administration of the reading/language arts assessment, and <b>exclude scores of recently arrived ELs in their first year in U.S. schools</b> on reading/language arts and mathematics assessments from accountability results (previous 34 C.F.R. § 200.6(b)(4))	States permitted to exclude a recently arrived EL from one administration of the reading/language arts assessment, with additional options for how a State can ensure the meaningful inclusion of recently arrived ELs in their accountability systems, such as <b>by including measures of achievement or growth in students' second year in U.S. schools on the assessments</b> (ESEA, as amended by ESSA, section 1111(b)(3)(A); 34 C.F.R. § 200.16(c)(3))

## Goals and Measurements of Interim Progress

### Overview

Each State must establish long-term goals and MIPs for increases in the percentage of ELs making annual progress toward attaining ELP, as measured by the State's ELP assessment (ESEA section 1111(c)(4)(A)(ii); 34 C.F.R. § 200.13(c)(1)). The period of time over which the ELP progress goals and MIPs may be set may be the same multi-year length of time used for academic achievement and graduation rate goals and MIPs or a State may use a different timeframe for the ELP progress goals and MIPs.

There are two aspects of developing ELP progress goals – a student-level component and a State-level component. First, with respect to the student-level component, in order to determine if a school has met the State's long-term goal or MIPs for ELP progress for ELs in a given year, a State must develop a uniform procedure for establishing targets for groups of ELs that share certain characteristics, which it will describe in its Title I program or consolidated State plan under ESEA section 1111 and consistent with 34 C.F.R. § 299.17(a). This uniform procedure must be applied consistently to *all* ELs in the State and must be based on research. In developing its uniform procedure, a State will need to complete three steps:

1. **Select student-level characteristics that the State will use to distinguish among groups of ELs.** The uniform procedure must take into consideration an EL's initial ELP level at the time of a student's identification as an EL, and may take into consideration one or more of the following student characteristics: time in an LIEP; grade level; age; native language proficiency level; and limited or interrupted formal education, if any.
2. **Determine timelines based on the student-level characteristics.** The uniform procedure, based on the student-level characteristics selected by the State, must include applicable timelines, up to a State-determined maximum number of years following identification as an EL, for ELs sharing particular characteristics to achieve ELP.
3. **Establish annual "student-level targets"<sup>4</sup> based on the applicable timelines.** Once the timeline for attaining ELP for a particular group of ELs sharing similar characteristics is determined in step two, the State must then establish targets for each such group of ELs to make annual progress toward attaining ELP within that timeline.

(34 C.F.R. § 200.13(c)(2))

Each of these steps is discussed in more detail below.

In developing its uniform procedure, each State must examine relevant research, which will help ensure that the student-level targets, including the State-determined maximum timeline, are ambitious and appropriate for EL students who share certain characteristics (34 C.F.R. § 200.13(c)(2) and (3)). Please see the resources list at the end of this document for suggestions of research that a State may consult in developing its uniform procedure to determine student-level targets for ELP progress.

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<sup>4</sup> The term "student-level targets" in this document refers to the targets to make progress toward attaining ELP that a State establishes for groups of EL students that share particular characteristics.

The uniform procedure for setting student-level targets for ELP progress helps ensure that the long-term goals and MIPs provide transparent information across the State, impart meaningful objectives for schools, and maintain fair and consistent expectations across schools. Therefore, a State may not set a uniform procedure that simply allows each LEA to establish student-level targets, although a State should consult with LEAs and request their feedback and input during the State’s development of long-term ELP progress goals and MIPs and selection of student-level characteristics included in determining timelines and student-level targets. Moreover, the student-level targets established in the uniform procedure must be used only for the purposes of school accountability under Title I; an EL who does not attain ELP within the timeline established under the State’s uniform procedure must not be exited from EL services or status prior to attaining ELP (34 C.F.R. § 200.13(c)(4)). For information on the requirements pertaining to statewide entrance and exit criteria and procedures for ELs, please see ESEA section 3113(b)(2), 34 C.F.R. §§ 299.13(c)(2), and 299.19(b)(4).

Second, the State must set a long-term goal and MIPs for all schools in the State based on the percentage of ELs that will meet their student-level targets each school year (*i.e.*, the State-level component). This is discussed in more detail on page 13.

## Developing Targets to Set Long-Term Goals and MIPs

### *Selecting Student-Level Characteristics*

In developing its uniform procedure for setting its long-term goal and MIPs for progress towards attaining ELP, a State should begin by considering which student-level characteristics it will include when determining the timelines and student-level targets for ELs sharing those characteristics. Each State’s uniform procedure must take into account an EL’s ELP level at the time of the student’s identification as an EL, and may take into account one or more of the following:

- Time in LIEPs;
- Grade level;
- Age;
- Native language proficiency level; and
- Limited or interrupted formal education, if any.

(34 C.F.R. § 200.13(c)(2)(i))

These characteristics are described in the diagram on the following page, with further information available in the resources cited at the end of this document.

Note that the characteristics listed below and in 34 CFR §200.13(c)(2)(i) are the *only* characteristics that may be included as part of a State’s uniform procedure; a State must not differentiate its student-level targets for ELP progress based on any other characteristic, such as disability status or national origin.

Including multiple characteristics in its uniform procedure will allow a State to create a process for setting student-level targets for ELP progress that results in student-level targets that account for the heterogeneity of the State’s EL population. In addition to research, we encourage States to consult with a diverse group of stakeholders to select a group of characteristics and approaches that reflect the States’ particular needs and context.

## Deep Dive: Student-Level Characteristics

### **Time in LIEPs:**

The longer an EL has been enrolled in LIEPs, the more likely the student is to attain ELP.

### **Grade Level:**

ELs may develop and attain ELP more quickly in the earlier grades. We encourage a State to consider either grade level or age, but not both.

### **Age:**

ELs may develop and attain ELP more quickly at a young age. We encourage a State to consider grade level or age, but not both.

### **Native Language Proficiency:**

A higher level of native language proficiency may increase the ability of an EL to attain ELP on a faster timeline. When including this factor, States should consider all four domains of language and use results from a valid, reliable assessment of native language proficiency.

### **Limited or Interrupted Formal Education:**

Limited or interrupted formal education can lead to delays in students' attainment of ELP. In order to use this characteristic, States will need to define students with limited or interrupted formal education (SIFE). For example, a definition of SIFE may include all ELs who enter U.S. schools after grade 2; have at least two fewer years of schooling than peers; function at least two years below expected grade level; and may be preliterate in their native language.

### *Determining Timelines Based on Student Characteristics*

A State's uniform procedure must also determine the timeline for an EL to attain ELP after identification as an EL, informed by the student characteristics the State selects and limited by the State-determined maximum timeline (ESEA section 1111(c)(4)(A)(ii); 34 C.F.R. § 200.13(c)(2)(ii)).

However, these requirements do not mean that the State sets the *same* timeline for achieving ELP for each group of ELs. Rather, the applicable timelines for groups of ELs to attain ELP should be differentiated based on the selected student-level characteristics. In this manner, a State must establish a uniform procedure that includes a range of years, within the State-determined maximum length of time, over which ELs are expected to achieve ELP that is grounded in research. Please see the resources included at the end of this guidance for research that a State may consult in developing a uniform procedure, including the State-determined maximum timeline and applicable timelines for ELs sharing certain characteristics.

Moreover, in its State plan, each State must provide a rationale, which may be informed by historical data on ELs attaining ELP, for the overall maximum number of years by which all groups of ELs are expected to attain ELP (34 C.F.R. §§ 200.13(c)(3) and 299.17(a)). For example, a State may determine it is appropriate to set its overall maximum timeline for ELs to attain ELP at five years to align with relevant research<sup>5</sup>, and the Title III reporting requirement on long-term ELs (ESEA section 3121(a)(6)), with timelines for groups of ELs sharing certain characteristics ranging from one to five years.

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<sup>5</sup> For research showing attainment of ELP may take five to seven years, see, *e.g.*, Kenji Hakuta. (2000). How Long Does It Take English Learners to Attain Proficiency? *University of California Linguistic Minority Research Institute*. UC Berkeley: University of California Linguistic Minority Research Institute.

### Establishing Annual Student-Level Targets Based on Applicable Timelines

Once a State has determined the applicable timelines for ELs to attain ELP based on their shared characteristics, a State must then determine the annual progress ELs are expected to make toward achieving ELP within their particular timelines (*i.e.*, the student-level targets) (34 C.F.R. § 200.13(c)(2)(iii)). For example, a State may expect a student to move from one achievement level on the ELP assessment to the next highest level in a single school year, or could expect a certain scale score increase on the State’s ELP assessment in each subsequent year, and may set annual targets that reflect those expectations. The amount of annual progress expected may vary based on the group of ELs sharing certain characteristics. For example, those ELs in the earliest grades may be expected to make more progress in a given year than ELs in later grades.

### Examples of Uniform Procedures for Creating Student-Level Targets

Figures 1 through 3 below show a range of sample frameworks for uniform procedures that a State could use to establish student-level targets for ELs that would inform its ELP long-term goals and MIPs. A State that adopted one of these frameworks would determine, based on research, the appropriate amount of progress to include in the framework for each group of ELs. Each State should utilize its own data and experts in the field (such as any State Technical Advisory Committee that would provide expertise on ELP assessments) to establish student-level targets for ELP progress, set a long-term goal and MIPs, and establish its ELP progress indicator. As noted above, these examples are for illustrative purposes only. A State need not adopt any of these examples.

**Figure 1** provides an example of a framework for a uniform procedure for setting student-level ELP targets that:

1. Includes **only initial ELP level** when setting student-level targets; and
2. Assumes a **State-determined maximum timeline of six years** for ELs to attain ELP after identification.

<b>Figure 1. Student-level targets using only initial ELP level</b>						
<b>Initial ELP Level in Year 1</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>	<b>Year 6</b>
<b>Beginning</b>	Student-level target*					
<b>Emerging</b>						
<b>Intermediate</b>						
<b>High Intermediate</b>						
<b>Advanced</b>						

**Example procedure 1: simple uniform procedure for setting student-level targets for ELP progress.**

\* Each cell should include the student-level target, *i.e.*, the amount of progress expected for that group of ELs (for example, the expected scale score on the ELP assessment) until the year in which the group of ELs is expected to attain ELP. States would fill in chart based on research on the amount of progress expected for each group of ELs to achieve ELP.

**Figure 2** shows a more complex framework for a uniform procedure than the example in Figure 1 for determining student-level targets for ELP progress, because it accounts for both initial ELP level (in this example, beginning, intermediate, or advanced) and grade level. This example assumes a State-determined maximum timeline for attaining ELP of five years.

***Example procedure 2: a more complex uniform procedure for setting student-level targets for ELP progress based on initial ELP level and grade level.***

\* Each cell should include the student-level target, *i.e.*, the amount of progress expected for that group of ELs (for example, the expected scale score on the ELP assessment) until the year in which the group of ELs is expected to attain ELP. States would fill in chart based on research on the amount of progress expected for each group of ELs to achieve ELP.

<b>Figure 2. Student-level targets using initial ELP level and grade level</b>						
<b>Initial ELP Level in Year 1</b>	<b>Grade Level</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>
<b><i>Beginning</i></b>	<i>Grades K-2</i>	Student-level target*				
<b><i>Beginning</i></b>	<i>Grades 3-5</i>					
<b><i>Beginning</i></b>	<i>Grades 6-8</i>					
<b><i>Beginning</i></b>	<i>Grades 9-12</i>					
<b><i>Intermediate</i></b>	<i>Grades K-2</i>					
<b><i>Intermediate</i></b>	<i>Grades 3-5</i>					
<b><i>Intermediate</i></b>	<i>Grades 6-8</i>					
<b><i>Intermediate</i></b>	<i>Grades 9-12</i>					
<b><i>Advanced</i></b>	<i>Grades K-2</i>					
<b><i>Advanced</i></b>	<i>Grades 3-5</i>					
<b><i>Advanced</i></b>	<i>Grades 6-8</i>					
<b><i>Advanced</i></b>	<i>Grades 9-12</i>					

***Example procedure 2: a more complex uniform procedure for setting student-level targets for ELP progress based on initial ELP level and grade level.***

\* Each cell should include the student-level target, *i.e.*, the amount of progress expected for that group of ELs (for example, the expected scale score on the ELP assessment) until the year in which the group of ELs is expected to attain ELP. States would fill in chart based on research on the amount of progress expected for each group of ELs to achieve ELP.

Finally, **Figure 3** on the following 2 pages illustrates a framework that takes into account four characteristics: (1) initial ELP level, (2) grade level, (3) native language proficiency level, and (4) limited or interrupted formal education. Though a procedure that considers many student characteristics may be more challenging to develop, as it involves additional research and distinctions among groups of ELs, we encourage a State, in consultation with stakeholders, to use as many characteristics as possible in order to ensure the student-level targets, and in turn, the State’s long-term goals and MIPs, reflect rigorous and reasonable expectations for ELs and consider the diversity of the EL population. This example also assumes a State-determined maximum timeline for attaining ELP of six years (five years for most students, as illustrated in the sample framework below, with the possibility of a sixth year for a SIFE EL).

**Figure 3. Student-level targets using multiple characteristics**

**Beginning ELP level**

***Beginning Native language proficiency (+ 1 year for SIFE)***

Grade level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Grades K-2	Student-level target*					(If needed for SIFE)
Grades 3-5						(If needed for SIFE)
Grades 6-8						(If needed for SIFE)
Grades 9-12						(If needed for SIFE)

***Intermediate Native language proficiency (+ 1 year for SIFE)***

Grade level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Grades K-2	Student-level target*					(If needed for SIFE)
Grades 3-5						(If needed for SIFE)
Grades 6-8						(If needed for SIFE)
Grades 9-12						(If needed for SIFE)

***Advanced Native language proficiency (+ 1 year for SIFE)***

Grade level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Grades K-2	Student-level target*					(If needed for SIFE)
Grades 3-5						(If needed for SIFE)
Grades 6-8						(If needed for SIFE)
Grades 9-12						(If needed for SIFE)

**Intermediate ELP level**

***Beginning Native language proficiency (+ 1 year for SIFE)***

Grade level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Grades K-2	Student-level target*					(If needed for SIFE)
Grades 3-5						(If needed for SIFE)
Grades 6-8						(If needed for SIFE)
Grades 9-12						(If needed for SIFE)

***Intermediate Native language proficiency (+ 1 year for SIFE)***

Grade level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Grades K-2	Student-level target*					(If needed for SIFE)
Grades 3-5						(If needed for SIFE)
Grades 6-8						(If needed for SIFE)
Grades 9-12						(If needed for SIFE)

***Advanced Native language proficiency (+ 1 year for SIFE)***

Grade level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Grades K-2	Student-level target*					(If needed for SIFE)
Grades 3-5						(If needed for SIFE)
Grades 6-8						(If needed for SIFE)
Grades 9-12						(If needed for SIFE)

**Figure 3, continued. Student-level targets using multiple characteristics**

**Advanced ELP level**

***Beginning Native language proficiency (+ 1 year for SIFE)***

Grade level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Grades K-2	Student-level target*					(If needed for SIFE)
Grades 3-5						(If needed for SIFE)
Grades 6-8						(If needed for SIFE)
Grades 9-12						(If needed for SIFE)

***Intermediate Native language proficiency (+ 1 year for SIFE)***

Grade level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Grades K-2	Student-level target*					(If needed for SIFE)
Grades 3-5						(If needed for SIFE)
Grades 6-8						(If needed for SIFE)
Grades 9-12						(If needed for SIFE)

***Advanced Native language proficiency (+ 1 year for SIFE)***

Grade level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Grades K-2	Student-level target*					(If needed for SIFE)
Grades 3-5						(If needed for SIFE)
Grades 6-8						(If needed for SIFE)
Grades 9-12						(If needed for SIFE)

***Example procedure 3: a uniform procedure for setting student-level ELP targets based on initial ELP level, grade level, and native language proficiency, with a business rule for SIFE.***

\* Each cell should include the student-level target, *i.e.*, the amount of progress expected for that group of ELs (for example, the expected scale score on the ELP assessment) until the year in which the group of ELs is expected to attain ELP. States would fill in chart based on research on the amount of progress expected for each group of ELs to achieve ELP.

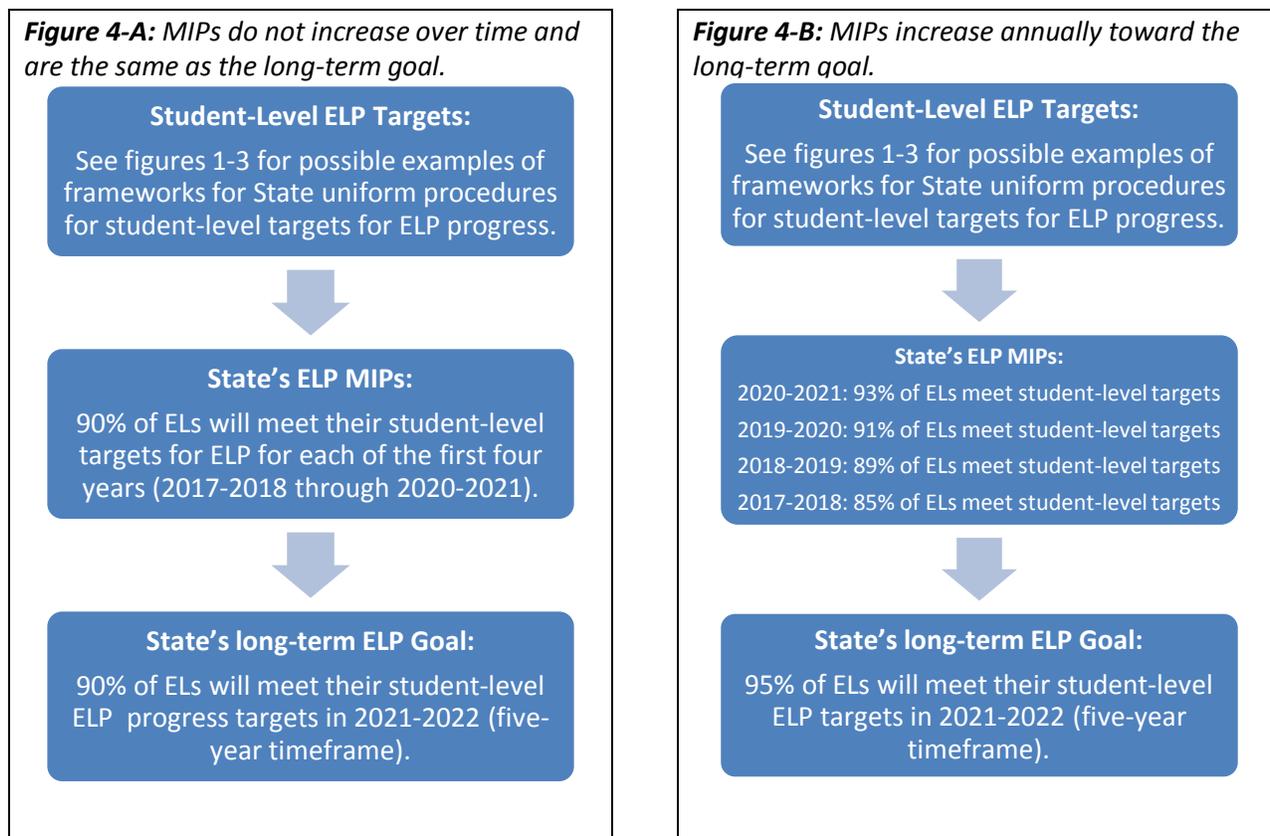
### Developing State-Level Long-Term Goals and MIPs

Once a State has developed its student-level targets for ELP progress, it must use those targets to establish a long-term goal and MIPs for annual progress toward attaining ELP (34 C.F.R. § 200.13(c)(1) and (2)).

Figure 4 illustrates the relationship of student-level targets for ELP progress to a State’s long-term goal and MIPs for ELP. When setting its long-term goal and MIPs for progress in attaining ELP, a State should first analyze its EL student data to consider whether the student-level targets are more rigorous than the current trajectory of ELs in the State toward attaining ELP. A State in which many ELs are attaining ELP within the maximum timeline, based on realistic annual student-level targets, should expect that most ELs will achieve their student-level targets each year. Such a State may not need to set MIPs that increase each year toward the long-term goal; it may be ambitious and reasonable for the MIPs to be the same as the long-term goal, as demonstrated in Figure 4-A, because a significant percentage of ELs are likely to meet their student-level targets for annual progress towards ELP in the first year (*i.e.*, 2017-2018, Figure 4-A).

In other States, however, it may be more appropriate, based on current data on ELs’ progress and trajectory toward achieving ELP, to set MIPs that increase over time and build toward the State’s long-term goal for ELP progress, acknowledging that improvements in LIEPs, services, and supports for ELs may be needed to meet an ambitious long-term goal. Figure 4-B provides an example of increasing MIPs.

**Figure 4. Relationship of student-level targets to a State’s ELP MIPs and long-term goal**



Given that the student-level targets for ELs’ progress toward ELP should be attainable for each EL student, as they are set based on selected student-level characteristics (described above), the Department strongly encourages States to establish MIPs and long-term ELP progress goals that expect a high percentage of ELs to meet their student-level targets each year, as demonstrated in the examples in Figure 4. When a State’s uniform procedure establishes student-level targets in a manner that takes into account the diverse needs of ELs, including multiple distinct characteristics of this population, the expectation should be that all ELs can meet those targets. Because the student-level targets are both rigorous and realistic, a State should then set its long-term goal and MIPs reflecting the same ambitious expectations for all ELs.

### Progress in Achieving ELP Indicator

Under the ESEA, each State must establish a multi-measure accountability system that includes at least five indicators: (1) an Academic Achievement indicator for all schools; (2) an Academic Progress indicator for elementary and middle schools; (3) a Graduation Rate indicator for all high schools; (4) a **Progress in Achieving ELP indicator** for all schools; and (5) at least one School Quality or Student Success indicator (ESEA section 1111(c)(4)(B); 34 C.F.R § 200.14(b)). For additional information about these indicators, including related requirements and considerations for selecting indicators, please see

[“Accountability Under Title I, Part A of the ESEA: Frequently Asked Questions.”](#) Further, as part of annual meaningful differentiation of schools, each State must describe a school’s performance on each of these indicators using at least three distinct and discrete levels of performance, so that parents and the public receive clear and transparent information – through a data dashboard or another approach – about school performance on a particular indicator (34 C.F.R. § 200.18(a)(2)-(3)).

The Progress in Achieving ELP indicator is the only accountability indicator measured for a single subgroup of students; States are not required to further disaggregate this indicator for any particular subset of students within the EL subgroup (34 C.F.R. § 200.14(a)(1)). In addition, the Progress in Achieving ELP indicator must:

- Be based on EL performance on the State’s annual ELP assessment in at least each of grades 3 through 8 and one grade for which ELs are assessed in high school in reading/language arts and mathematics;
- Use objective measures of student progress on the State’s ELP assessment, comparing students’ results from the current school year to results from the previous school year, such as student growth percentiles; and
- Be aligned with the State-determined timeline for each EL to attain ELP following identification as an EL, consistent with the student-level timelines established in the State’s uniform procedure for setting goals and MIPs, as described above.

(ESEA section 1111(c)(4)(B)(iv); 34 C.F.R. § 200.14(b)(4)(i)-(ii))

The Progress in Achieving ELP indicator also may include a measure of proficiency on the State’s ELP assessment in addition to a measure of progress – for example, the percentage of ELs scoring proficient on the annual ELP assessment compared to the prior year (34 C.F.R. § 200.14(b)(4)(iii)).

When establishing and calculating the Progress in Achieving ELP indicator for each school, States should take into account the following considerations:

- High School Assessments: The ESEA requires that each State include performance on the annual ELP assessments in grades 3 through 8 and once in high school in the Progress in Achieving ELP indicator. Therefore, a State is not required to consider performance on the ELP assessment in grades K-2 or other high school grades within the Progress in Achieving ELP indicator. However, a State may want to include grades in addition to the ones required to provide more complete information about ELs in the Progress in Achieving ELP indicator.
- Students with only one ELP assessment result: If an EL is enrolled in a grade that is generally included in calculating the Progress in Achieving ELP indicator (*e.g.*, grades 3 through 8 or the relevant high school grade), but the EL only has one ELP assessment result (*e.g.*, because the student is a recently-arrived EL), the State is encouraged, but not required, to include the student when determining the school’s performance on the Progress in Achieving ELP indicator. For example, a State could estimate a student’s progress on the ELP assessment by using the student’s results on the ELP placement test (*e.g.*, the ELP “screener”) to generate an estimate of the student’s progress on the ELP assessment, if the two assessments are linked.

## Developing an Indicator of Progress in Achieving ELP

A State has discretion in determining which measure(s) it uses for establishing its Progress in Achieving ELP indicator, so long as the measures are valid, reliable, objective, comparable, and calculated in the same way across all LEAs and schools (34 C.F.R. § 200.14(b)(4) and (c)). The three examples below show some options a State could consider, consistent with these statutory and regulatory requirements, and explain certain parameters a State should take into account. However, these examples are illustrative only and not exhaustive; there are many other approaches a State may take to design a Progress in Achieving ELP indicator. Each State should utilize its own data and experts in the field (such as any State Technical Advisory Committee that would provide expertise on ELP assessments) to establish the Progress in Achieving ELP indicator.

### Examples of Progress in Achieving ELP Indicators

Figure 5 below shows examples of two ways a State could establish the Progress in Achieving ELP indicator based on a school’s attainment of the State’s long-term goal or MIPs for ELP. Each example produces at least three performance levels on the indicator — one for a State that does not use a numerical index and relies on categorical labels for annual meaningful differentiation of schools, and one that uses a numerical index and awards points on each indicator. These are just examples, as there are a myriad of ways that a State could take into account the Progress in Achieving ELP indicator in its statewide accountability system.

Specifically, in Figure 5, State A does not use a numerical index, but has created three performance levels based on a school’s attainment of its long-term goal or MIP for ELP progress each year. State B, on the other hand, uses a numerical index. Any school meeting the long-term goal or MIP is awarded full credit, 10 points, on the indicator, while a school that significantly exceeds its goal or MIP receives two additional bonus points in the system of annual meaningful differentiation. If a school misses the long-term goal or MIP in any given year, it receives 0 points.

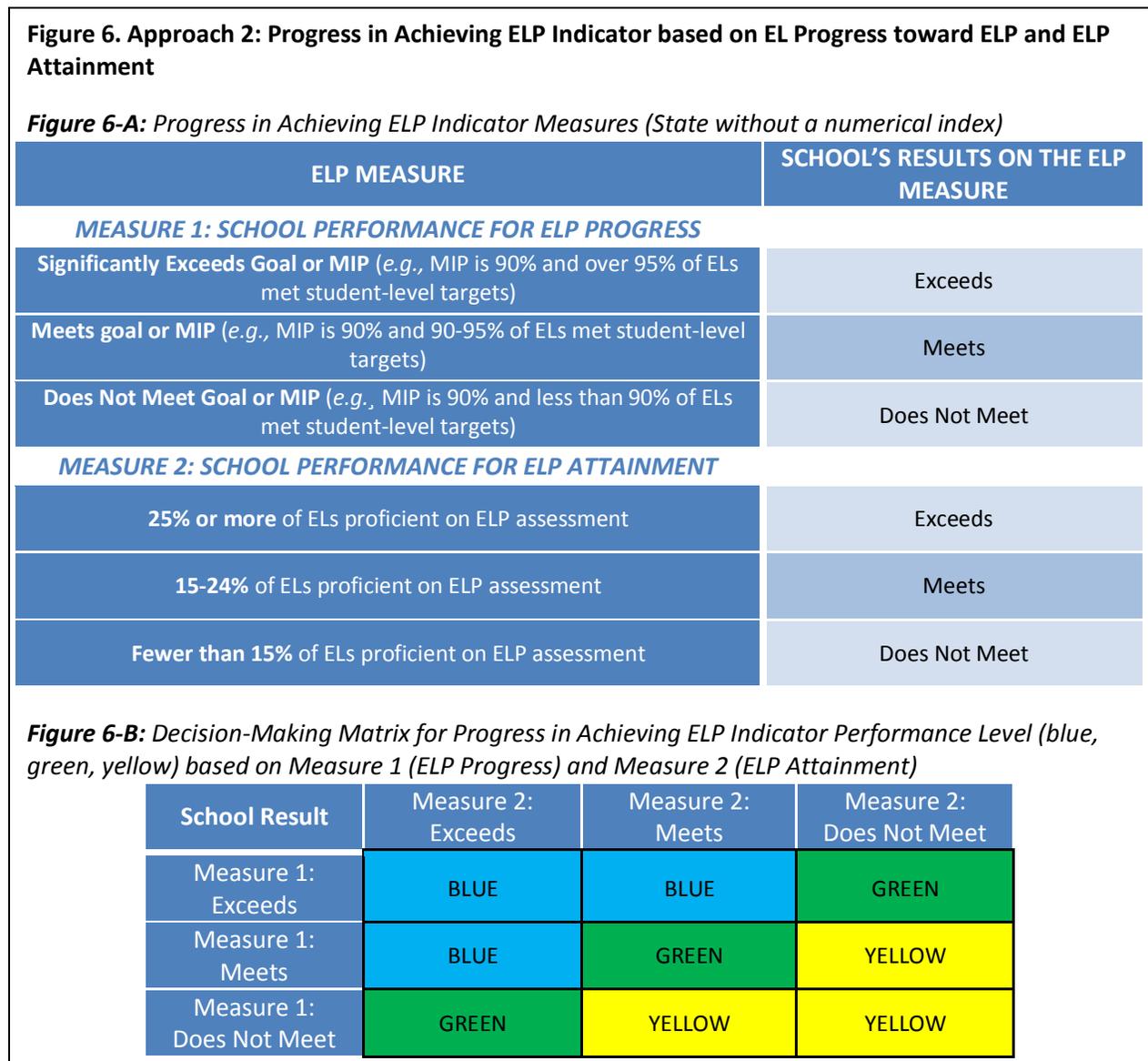
**Figure 5. Approach 1: Progress in Achieving ELP Indicator based on a State’s Long-Term Goal & MIPs**

<i>School performance, as measured against the State’s long-term ELP goal and MIPs</i>	School’s result on the Progress in Achieving ELP indicator (for State A without a numerical index)	School’s result on the Progress in Achieving ELP indicator (for State B using a numerical index)
<b>Significantly Exceeds Goal or MIP</b> (e.g., MIP is 90% and over 95% of ELs met student-level targets)	Exceeds	10 points + 2 bonus points
<b>Meets goal or MIP</b> (e.g., MIP is 90% and 90-95% of ELs met student-level targets)	Meets	10 points
<b>Does Not Meet Goal or MIP</b> (e.g., MIP is 90% and fewer than 90% of ELs met student-level targets)	Does Not Meet	0 points

Another approach a State could take in developing a Progress in Achieving ELP indicator is to take advantage of the flexibility to include both measures of ELP progress and proficiency in the indicator — Figures 6 and 7 show two different ways a State could incorporate this approach, one for a State that does not use a numerical index (Figure 6) and one that uses a numerical index (Figure 7) within its

system of annual meaningful differentiation of schools. In both examples, the State reports school results on the indicator using three performance levels, consistent with the requirements in 34 C.F.R. § 200.18(a)(2).

In Figure 6, the State would establish a statewide methodology to measure ELP progress and attainment. In this example, the State would equally consider both measures (progress and attainment of ELP), and use a decision-making matrix (Figure 6-B) to determine the school’s final performance level (blue, green, or yellow) on the Progress in Achieving ELP indicator. This ensures that the State has a comparable and consistent process to determine and report the school’s final performance level, which could be communicated to parents and the public using a data dashboard that depicts each color across the performance spectrum.



For example, applying this matrix, the school that received a rating of “Exceeds” on the ELP progress measure and “Meets” on the ELP attainment measure would receive an overall level of performance on

the Progress in Achieving ELP indicator of “blue.” A school that received a rating of “Meets” on both the ELP progress and attainment measures would receive an overall performance level on the Progress in Achieving ELP indicator of “green,” while a school that “Does Not Meet” either the ELP progress or attainment component would be flagged as “yellow” when its performance level is reported for the Progress in Achieving ELP indicator.

Figure 7 demonstrates how a similar approach could work in a State using a numerical index to annually meaningfully differentiate among schools, with a statewide methodology to measure ELs’ progress toward ELP, as well as attainment of ELP. Similar to Figure 6, the example depicted in Figure 7 equally considers both measures.

**Figure 7. Approach 2: Progress in Achieving ELP Indicator based on EL Progress toward ELP and ELP Attainment**

**Figure 7-A: ELP Indicator Measures (State using a numerical index)**

ELP MEASURE	SCHOOL'S RESULTS ON THE ELP MEASURE
<b>MEASURE 1: SCHOOL PERFORMANCE FOR ELP PROGRESS</b>	
Significantly Exceeds Goal or MIP (e.g., MIP is 90% and over 95% of ELs met student-level targets)	10 points +2 bonus points
Meets goal or MIP (e.g., MIP is 90% and 90-95% of ELs met student-level targets)	10 points
Does Not Meet Goal or MIP (e.g., MIP is 90% and less than 90% of students met student-level targets)	0 points
<b>MEASURE 2: SCHOOL PERFORMANCE FOR ELP ATTAINMENT</b>	
30% or more of ELs proficient on ELP assessment	12 points
10%-29% of ELs proficient on ELP assessment	5 points
Less than 10% of ELs proficient on ELP assessment	0 points

**Figure 7-B: Determining the Progress in Achieving ELP Indicator Performance Level (blue, yellow, green) based on Measure 1 (ELP Progress) and Measure 2 (ELP Attainment)**

TOTAL POINTS	Performance Level
17 or more points for ELP Progress and Attainment	BLUE
11-16 points for ELP Progress and Attainment	GREEN
10 or fewer points for ELP Progress and Attainment	YELLOW

Using this methodology, a school that significantly exceeds its long-term goal or MIP in a particular school year would receive 10 points, and an additional two bonus points, on the progress measure of the Progress in Achieving ELP indicator. If 20 percent of ELs in that school are proficient on the ELP assessment, the school would receive an additional five points on the attainment measures of the indicator. In total, that school would receive a final score of 15 points + 2 bonus points on the Progress in Achieving ELP indicator, which would result in a “blue” performance level, as depicted in Figure 7-B, when the indicator was presented on the State’s data dashboard.

In addition to the two approaches demonstrated in Figures 5-7, a State may measure a school’s performance on the Progress in Achieving ELP indicator using another objective measure of progress toward ELP, such as student growth percentiles (SGPs). An SGP describes a student’s growth towards attaining ELP compared to similar ELs (*i.e.*, a peer group of ELs that share common characteristics) in the State. Although SGP calculations may seem complicated, they facilitate communication of performance information in percentile terms, where the 50th percentile indicates a “typical” level of growth for an EL in that peer group across the State.

Because the Progress in Achieving ELP indicator must be aligned with the State-determined timelines that are established in the uniform procedure the State uses for setting student-level targets for ELP progress (34 C.F.R. § 200.14(b)(4)(ii)), a State choosing to use SGPs in its Progress in Achieving ELP indicator would take into account a student’s initial ELP level and any additional student-level characteristics the State chooses to include in its uniform procedure. In other words, in creating growth percentiles for each peer group, a State would group ELs with a similar set of characteristics together. For instance, a State that examined grade level and initial ELP level in its uniform procedure could determine the range of growth for ELs in elementary schools with intermediate levels of initial ELP separate from the range of growth for ELs in elementary schools with advanced levels of initial ELP.

A State may also construct what is known as a “growth to proficiency” model using statistical techniques to measure a student’s growth on ELP and determine if his or her level of growth is sufficient to lead that student to proficiency in the targeted timeframe. In this way, States can ensure that the Progress in Achieving ELP indicator considers not only if students are making *any* progress in ELP, but also if they are making *sufficient* progress to attain ELP and exit EL status consistent with the State-determined timeline. We strongly encourage any State interested in using growth to proficiency models in its Progress in Achieving ELP indicator to consult with technical experts in developing its model to ensure that it is statistically sound and meets all requirements for valid, reliable, comparable, and objective measures of progress that are aligned with the State-determined timelines for achieving ELP (34 C.F.R. § 200.14(b)(4) and (c)).

As a theoretical example of how this type of measure could be aggregated to the school level, a State could calculate the percentage of ELs in the school achieving adequate growth each year, and establish a range of percentages that equate to “low,” “average,” and “high” growth on the indicator, as illustrated in Figure 8. In this case, “High” growth would indicate that most ELs in the school are making adequate growth toward ELP, while “Low” growth would indicate that most ELs in the school are not making sufficient progress to attain ELP within the State-determined timeline.

**Figure 8. Approach 3: Using a Growth to Proficiency Model in the Progress in Achieving ELP Indicator**

<i>Level of Student Growth toward ELP</i>	School’s result on the ELP indicator (for State A without a numerical index)	School’s result on the ELP indicator (for State B using a numerical index)
<b>High Growth:</b> 67% or more of ELs achieving adequate growth to ELP	High Growth	10 points
<b>Average Growth:</b> 33 - 66% of ELs achieving adequate growth to ELP	Average Growth	5 points
<b>Low Growth:</b> Less than 33% of ELs achieving adequate growth to ELP	Low Growth	0 points

## English Learners with Disabilities

ESEA section 1111(c)(4)(B)(iv) requires that the performance of *all* ELs on the ELP assessment be included in accountability systems, and this includes the performance of ELs with disabilities. ESEA section 1111(b)(2)(G) specifies that a State's annual ELP assessment must include student performance on all four domains of the ELP assessment. There are a small number of ELs with disabilities, however, for whom the disability precludes assessment in one or more domains of the ELP assessment such that there are no appropriate accommodations for the affected domain(s) (*e.g.*, a non-verbal EL who, because of the student's identified disability and the absence of appropriate accommodations, cannot take the speaking portion of the assessment). The new regulations (see 34 C.F.R. § 200.16(c)(2)) provide that for the Progress in Achieving ELP indicator, if an EL has such a disability such that there are no appropriate accommodations, as determined on an individualized basis by the student's Individuals with Disabilities Education Act (IDEA) Individualized Education Program (IEP) team, the Section 504 of the Rehabilitation Act team, or individual or team designated by the LEA to make these decisions under Title II of the Americans with Disabilities Act (ADA), a State must include for accountability purposes the student's score on the ELP assessment based on the domains in which it is possible to assess the student.

To be clear, this narrow exception for those ELs with disabilities described above, with respect to the domains included in the Progress in Achieving ELP indicator, in no way affects the obligation of States and LEAs to assess all ELs with disabilities on the annual ELP assessment. Under IDEA section 612(a)(16)(A), all students with disabilities must be included in all State assessments described under ESEA section 1111, including content assessments described under ESEA section 1111(b)(2), and the annual ELP assessment described in ESEA section 1111(b)(2)(G). All ELs with disabilities must be provided with appropriate accommodations on those assessments, as determined through applicable procedures (34 C.F.R. § 200.6). States must also provide an alternate ELP assessment for the small number of ELs with the most significant cognitive disabilities, for whom the student's IEP team determines it to be necessary, who cannot participate in the general ELP assessment even with appropriate accommodations (34 C.F.R. § 200.6(h)(5) and 34 C.F.R. §300.160(a)).<sup>6</sup>

Accommodations should be based on the particular needs of each individual EL with a disability, as well as the construct being measured in that particular assessment. For example, a determination may be made in accordance with applicable procedures that a visually-impaired EL who is unable to use Braille because he or she has a physical or neurological disability that precludes the student from reading Braille may not be able to take the reading portion of the ELP assessment, which measures a student's ability to read; therefore having the assessment read aloud to the student would not be an appropriate accommodation because it would not measure the student's ability to read. On the other hand, that same student may be able to take the other statewide assessments, such as the mathematics or reading/language arts assessment, using an accommodation like reading aloud, if reading aloud the assessment to the student would not otherwise invalidate the test score.

The narrow exception established by 34 C.F.R. § 200.16(c)(2) will affect a small number of students, and

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<sup>6</sup> Although the ELP assessment is not subject to the 1.0 percent cap in ESEA section 1111(b)(2)(D), we nevertheless expect that the vast majority of ELs with disabilities will be able to take the general ELP assessment with or without appropriate accommodations. The alternate ELP assessment is for only the very small fraction of ELs with the most significant cognitive disabilities, for whom the student's IEP team determines it to be necessary.

the applicability of the exception must be decided on an individualized basis. A State may not adopt categorical rules for excluding ELs with certain disabilities from being assessed in certain domains of the ELP assessment. Rather, just as a student's IEP team, 504 team, or individual or team designated by the LEA to make these decisions under Title II of the ADA makes the decision, on an individualized basis, about whether a student needs assessment accommodations, and if so, which accommodations would be appropriate for the student to use on the particular assessment, the same process must be used to determine on an individualized basis whether the exception established by 34 C.F.R. § 200.16(c)(2) applies to a student in taking the annual ELP assessment. A State may also develop guidelines or professional development opportunities to support IEP teams, 504 teams, or other individuals or teams designated by the LEA to make these decisions under Title II of the ADA, in making these decisions.

The Department recognizes that most States use some combination or composite of domain scores to measure performance on the ELP assessment, and that there are a number of important technical issues related to how States develop and analyze individual test items, and combine, average, and weight scores across the ELP assessment — whether they use individual domain scores or a composite score. For the small subset of ELs with disabilities who cannot be assessed in all four domains, States should develop a set of parameters and procedures to obtain a composite score based on performance in the remaining domains of the ELP assessment. For example, if a State typically evenly weights the domains of the ELP assessment to obtain a composite score, then it would develop procedures to obtain an alternate composite score for a nonverbal EL who cannot participate in the speaking portion of the assessment and would only receive scores on the reading, writing, and listening portions. In developing these parameters and procedures, States should consider validity, reliability, and comparability of the scores and account for the individual domains so that the resulting composite weighting meaningfully measures a student's overall proficiency in English (*i.e.*, provides a valid and reliable measure of ELP).

We strongly encourage States to examine relevant research and data and consult with experts and stakeholders to ensure that, for the small subset of ELs with disabilities who are not assessed on all four domains, the ELP composite scores validly and reliably demonstrate student growth and proficiency in the English language. States that are members of ELP assessment consortia should consult with the technical experts from their respective consortia. Please see the resources list at the end of this document for a list of relevant readings a State could use to inform its procedures for creating composite scores for these ELP results.

## Recently Arrived English Learners

The ESEA includes new flexibility for States regarding the inclusion of recently arrived ELs' scores on the reading/language arts and mathematics assessments used in a State's accountability system. Recently arrived ELs are defined by the statute as ELs who have been enrolled in schools in the U.S. or the District of Columbia (not including Puerto Rico and the outlying areas) for less than 12 months (ESEA sections 1111(b)(3)(A) and 8101(48)). The definition of a recently arrived EL does not necessarily require that a student be enrolled in U.S. schools for 12 consecutive months; a State may count cumulative months. This means that if an EL leaves the U.S. after six months in a U.S. school, then returns again the following school year, the first six months would be counted towards that student's 12 months of time in school.

Only months in which school is in session should count toward the 12 months (*e.g.*, not summer vacation months).<sup>7</sup>

The statute and regulations explain the two statutory exceptions for including the assessment results of recently arrived ELs in a State's accountability system (ESEA section 1111(b)(3)(A); 34 C.F.R. § 200.16(c)(3)). The regulations provide further clarity by explaining three options for including recently arrived ELs in the accountability system, based on those statutory exceptions. (34 C.F.R. § 200.16(c)(3), (4)). These exceptions and options are explained below.

### **Exceptions to Including Assessment Results of Recently Arrived ELs in Accountability Systems**

Exception A (ESEA section 1111(b)(3)(A)(i); 34 C.F.R. § 200.16(c)(3)(i)): A State may--

- a. Exempt a recently arrived EL from one administration of the reading/language arts assessment required under ESEA section 1111(b)(2)(A);
- b. Exclude a recently arrived EL's results on the mathematics and ELP assessment<sup>8</sup> for accountability purposes (the Academic Achievement indicator and the Progress in Achieving ELP indicator) in the first year of the student's enrollment in schools in the U.S.; and
- c. Include the results on the reading/language arts, mathematics, and ELP assessment for accountability purposes (the Academic Achievement indicator and the Progress in Achieving ELP indicator) in the second year of enrollment and thereafter.

Under this option, in an EL's first year, the student is not exempted from taking the statewide mathematics and science assessments, or the ELP assessment. (ESEA section 1111(b)(2)(B), (b)(2)(G), and (b)(3)(A)).

Exception B (ESEA section 1111(b)(3)(A)(ii); 34 C.F.R. § 200.16(c)(3)(ii)): A State may--

- a. Assess and report a recently arrived EL's results on the reading/language arts and mathematics assessments, but exclude those results for accountability purposes (the Academic Achievement indicator) in the student's first year of enrollment in schools in the U.S.;
- b. Include a measure of such student's growth on the reading/language arts and mathematics assessments for accountability purposes in the second year of a recently

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<sup>7</sup> Thus, in applying the exception described below in which recently arrived ELs may be exempted from the reading/language arts assessment in their first year, if a student enters and leaves the U.S. so that a State might administer annual assessments multiple times before that EL has attended a full 12 months of school in the U.S., a State may only exempt a recently arrived EL from *one, and only one*, administration of the State's reading/language arts assessment during the period of time such a student has not attended schools in the U.S. for a full 12 months (ESEA section 1111(b)(3)(A)).

<sup>8</sup> Under this exception, there will be no reading/language arts results in a student's first year in the U.S, because that student would be exempt from taking that assessment.

arrived EL’s enrollment in schools in the U.S., by including the growth measure in either the Academic Progress indicator or the Academic Achievement indicator; and

- c. Include a measure of such student's proficiency on the reading/language arts and mathematics assessments for accountability purposes (the Academic Achievement indicator) in the third and each succeeding year of a recently arrived EL’s enrollment. In the third and each succeeding year, a State may also choose to continue measuring such student’s growth on the reading/language arts and mathematics assessments for accountability purposes, if the State generally includes a measure of student growth for all students in one of its accountability indicators.

Figure 9 illustrates the two exceptions:

<b>Figure 9. Allowable Exceptions for Recently Arrived ELs</b>									
<b>Exception A</b>									
<b>Use of Assessment for Recently Arrived EL, by Year</b>	<b>Year 1 R/LA</b>	<b>Year 1 Math</b>	<b>Year 1 ELP</b>	<b>Year 2 R/LA</b>	<b>Year 2 Math</b>	<b>Year 2 ELP</b>	<b>Year 3 R/LA</b>	<b>Year 3 Math</b>	<b>Year 3 ELP</b>
<b>EL Takes Assessment?</b>	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>State Reports Score?</b>	--	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>States Includes in Accountability System?</b>	--	No	No	Yes	Yes	Yes	Yes	Yes	Yes
<b>Exception B</b>									
<i>(under exception B, the results of all ELs on the ELP assessment are included in the EL progress indicator as they normally would be in the absence of an exception.)</i>									
<b>Use of Assessment for Recently Arrived EL, by Year</b>	<b>Year 1 R/LA</b>	<b>Year 1 Math</b>	<b>Year 1 ELP</b>	<b>Year 2 R/LA</b>	<b>Year 2 Math</b>	<b>Year 2 ELP</b>	<b>Year 3 R/LA</b>	<b>Year 3 Math</b>	<b>Year 3 ELP</b>
<b>EL Takes Assessment?</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>State Reports Score?</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>States Includes in Accountability System?</b>	No	No	Yes	Growth	Growth	Yes	Proficiency	Proficiency	Yes

## State Options for Including Assessment Results of Recently Arrived ELs in Accountability Systems

A State has three options for including recently arrived ELs in accountability:

**Option 1:** A State may choose not to exercise either of the exceptions described above. Instead, such a State would include the assessment results of a recently arrived EL in its accountability system immediately upon a student's enrollment in a U.S. school in the same manner as it includes all other students. This means that the student takes all required assessments in applicable grades (reading/language arts, mathematics, science, and ELP) and the student's scores on the assessments are counted in the accountability system in the same manner as for all other students (ESEA 1111(b)(2)(B), (b)(2)(G), 34 C.F.R. § 200.16(c)(3)).

**Option 2:** A State may choose one of the two exceptions (A or B above) and apply that exception to all recently arrived ELs uniformly across the State (34 C.F.R. § 200.16(c)(4)(i)(A)).

**Option 3:** A State may choose to create a uniform statewide procedure for determining which exception (A or B above), if any, is appropriate for each category of recently arrived ELs that must take into account a student's initial ELP level and may take into account one or more of the following student-level characteristics:

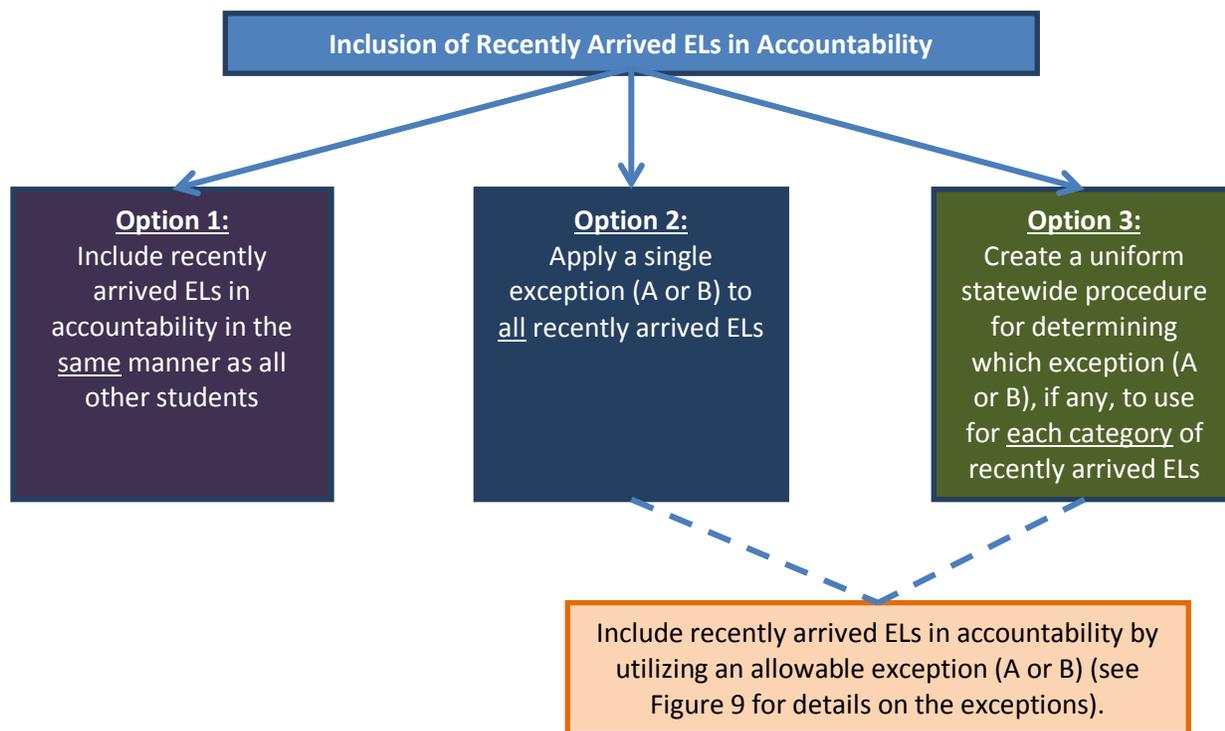
- Grade level;
- Age;
- Native language proficiency level; and
- Limited or interrupted formal education, if any.<sup>9</sup> (34 C.F.R. § 200.16(c)(4)(i)(B)).

A graphic depicting the three options for including recently arrived ELs in a State's accountability system is shown below (Figure 10).

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<sup>9</sup> Note that under the regulations (34 C.F.R. § 200.16(c)(4)(i)(B)), only the characteristics in § 200.13(c)(2)(i)(B)-(E) may be considered, which do not include "time in LIEP," which is in § 200.13(c)(2)(i)(A), because all recently arrived ELs have basically the same amount of time in an LIEP, which is almost zero.

**Figure 10. Three Options for Including Recently Arrived ELs in a State’s Accountability System**



If a State elects to use option 2, it may select only one of the exceptions (A or B shown in Figure 9) for all of its recently arrived ELs. If a State elects to use option 3, it must develop and consistently implement a uniform statewide procedure for all recently arrived ELs that, in determining whether an exception applies for a group of recently arrived ELs, must consider a student’s ELP level and may consider one or more of the following student-level characteristics: grade level, age, native language proficiency level, and limited or interrupted formal education (34 C.F.R. § 200.16(c)(4)(i)(B)). Under option 3, a State’s uniform procedure must ensure that recently arrived ELs with the same initial ELP level (and any of the other allowable characteristics a State may choose) are included within the accountability system in the same manner (§ 200.16(c)(4)(i)(B)). Figure 11 shows one possible State example of a uniform procedure.

**Figure 11. Example State Uniform Procedure for Recently Arrived ELs Using Option 3**

Recently Arrived ELs differentiated by allowable student-level characteristics	Accountability Approach
Recently Arrived ELs who are SIFE	Exception A
Recently Arrived ELs with initial ELP levels 1-2	Exception B
Recently Arrived ELs with initial ELP levels 3-4	Neither exception; include in the same manner as all other students

A uniform procedure is necessary in a State selecting option 3 in order to ensure consistency in the State’s approach to including recently arrived ELs statewide across LEAs, both for reporting and data analysis purposes, for fairness in school accountability across LEAs, and to avoid negative effects on individual ELs who move from one district to another. Therefore, it is not a uniform procedure if a State

provides the discretion to LEAs or schools as to whether an exception is appropriate. It is also important for States to ensure that LEAs understand that all recently arrived ELs must take the annual ELP assessment when that assessment is given, regardless of how recently an EL arrived in the U.S.; there is no exception to the statutory requirement that ELs must be assessed with the annual ELP assessment.



**How do these options and exceptions apply to recently arrived ELs who take content assessments in their native languages?**

The Department encourages the use of content assessments in native languages (see ESEA section 1111(b)(2)(B)(vii)), which can eliminate the need for a State's use of one of the exceptions for recently arrived ELs. For students who take a content assessment in their native language, a State may choose whether or not to treat such students, in their first 12 months in the U.S., as "recently arrived ELs."

### Former English Learners

Under ESEA section 1111(b)(3)(B), a State may include the reading/language arts and mathematics assessment results for former ELs for up to four years in the EL subgroup for purposes of calculating any of the indicators used in a State's system of annual meaningful differentiation of schools that are based on data from such assessments (*e.g.*, Academic Achievement and Academic Progress, if a State chooses to use a measure of student growth based on the statewide assessments). Students whose scores can be included are those students who were "previously identified as ELs" (ESEA section 1111(b)(3)(B)), have reached the proficient level on the State ELP assessment, and have exited EL status, consistent with the statewide EL exit procedures (34 C.F.R. § 200.16(c)(1)). This enables schools to receive "credit" in accountability determinations for ELs who have attained ELP. The EL subgroup, by its nature, is unique as compared to other ESEA subgroups since success is defined by exiting the subgroup, and this flexibility is intended to reward schools for such success.



**Is a student a "former EL" if he or she has exited EL status but is still enrolled in a dual language program?**

Yes. An EL enrolled in a dual language program, where the goal of the program is to develop proficiency in both English and another language, is counted as a former EL once he or she has attained ELP.

There are several limitations on how a State may include these former ELs in the EL subgroup. First, the treatment of former ELs for accountability purposes must be uniform and statewide. A State must use a uniform statewide procedure to determine which former ELs are included in the EL subgroup and for how long, and include this procedure in its State plan; States may not give schools the option of including the scores of former ELs in the EL subgroup for State accountability determinations, or for determining the length of time that they may be included (34 C.F.R. §§ 200.16(c)(1), 299.17(b)(3)(ii)). In other words, within a State, one school may not include former ELs for three years after they exit from the EL subgroup, while another school includes former ELs for four years after they exit from the EL subgroup.

Second, assessment results from former ELs may be included in a State's accountability system in the indicators that use data from content assessments in reading/language arts and mathematics (e.g., the State's Academic Achievement indicator or Academic Progress indicator, if the State chooses to measure student growth on the assessments in that indicator) (34 C.F.R. § 200.16(c)(1)), but may not be included for any other purpose including, for example, calculating participation rate for the EL subgroup at the school level (34 C.F.R. § 200.16(d)).<sup>10</sup>

Third, former ELs must be included in determining whether the EL subgroup meets the State's n-size in a particular school if a State chooses to include the results of former ELs in an indicator (34 C.F.R. § 200.16(c)(1)(ii)). For example, if a State's n-size is 20 students, and an elementary school has 10 current ELs and 10 former ELs enrolled in grades 3-5, the school meets the State's minimum n-size for accountability purposes. Furthermore, data may be combined across grades and for up to three years (34 C.F.R. § 200.20(a)). For example, in a State with a minimum n-size of 30 students that includes former ELs for purposes of the Academic Achievement indicator, if a middle school has five former ELs enrolled in 6th grade, eight current ELs in 7th grade, and 10 current ELs and 10 former ELs in 8th grade, the school's data could be combined for the Academic Achievement indicator across 6th through 8th grades to yield 33 students, which meets the State's minimum n-size for accountability purposes.

Please note that this provision does not establish a definition of "former ELs" for any purpose other than the accountability system established under the ESSA. For additional information on the civil rights obligations to monitor and evaluate the performance of former ELs, see the Dear Colleague Letter: "[English Learner Students and Limited English Proficient Parents](#)," issued by the Departments of Justice and Education (1/7/15).

Regardless of whether a State decides to include State assessment results of former ELs in the EL subgroup within indicators that are based on those data, all States **must** include some former ELs for purposes of reporting the adjusted cohort graduation rate – and as a result, these former ELs should also be included in the Graduation Rate indicator for each high school. Specifically, a student who was identified as an EL at any time during the cohort period (i.e., at any point during high school) must be included in the EL subgroup when States report adjusted cohort graduation rates (34 C.F.R. § 200.34(e)(2)). A student who exits EL status in middle school, however, would not be included in any graduation rate calculations that are disaggregated for the EL subgroup.

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<sup>10</sup> See Section E in "[Accountability Under Title I, Part A of the ESEA: Frequently Asked Questions](#)."

## Reporting Limitations for Former ELs

The accountability provision for including former ELs in the EL subgroup for purposes of indicators based on State assessment results also does not permit a State to include former ELs for purposes of reporting information on State and LEA report cards, except as reflected in the performance on an indicator on which former EL performance was included (34 C.F.R. § 200.16(d)).<sup>11</sup> For all other reporting purposes, the EL subgroup consists of only current ELs and does not include former ELs. In addition, note that Title III of the ESEA requires an LEA that receives Title III funds to report on the number and percentage of ELs meeting State academic standards for **each** of the four years after they are no longer receiving EL services (ESEA section 3121(a)(5)).<sup>12</sup> While the accountability provision leaves to the State the number of years, up to four, for including the assessment results of former ELs in the calculation of specified accountability indicators, the Title III reporting provision requires four years of data to be reported in all cases. Because of this Title III requirement, States are required to have data collection systems to follow students' progress in this manner.

Finally, if it wishes to do so, a State may establish and describe in its State plan its own additional subgroups of students that include former ELs, such as 'ever ELs' (students who have at any time been an EL, including former and current ELs), SIFE, or other subgroups of ELs (34 C.F.R. §§ 200.16(e), 299.17(b)(2)). States may find it useful to further disaggregate the EL subgroup in order to learn more about the performance of groups of students within this subgroup so as to use this information for instructional planning.

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<sup>11</sup> See also 34 C.F.R. § 200.34(e)(2) and "[High School Graduation Rate: Non-Regulatory Guidance](#)" for additional information regarding this requirement and calculation of the four-year ACGR. for requirements about including former ELs in the EL subgroup for graduation rate reporting; unlike the optional accountability provisions related to former ELs, States must report adjusted cohort graduations rates for the EL subgroup including all students that were identified as an EL at any point during the cohort.

<sup>12</sup> See "[English Learners and Title III of the Elementary and Secondary Education Act \(ESEA\), as amended by the Every Student Succeeds Act \(ESSA\)](#)."

## Resources

### Methodological Resource:

Cook, H. G. & Stewart, K. (June 2012). [Examining the Possible Creation of Alternate Composite Scores in a WIDA State: A Linear Regression Approach](#). (WIDA Research Report). Madison: Wisconsin Center for Educational Research.

### Research on Time-to-Proficiency:

#### **A. Initial English language proficiency, grade-level and time-to-proficiency**

Haas, Huang, Tran, Yu (2016). "[The achievement progress of English learner students in Nevada](#)" Washington: U.S. Department of Education, Regional Educational Laboratory at WestEd.

This study researched time-to-proficiency based on characteristics of initial grade level and English proficiency, as well as disability, for three cohorts of ELs (Kindergarten, 3rd Grade, and 6th Grade) in Clark County and Washoe County School Districts, Nevada. It found: 1) After six years, more than 90 percent of the English learner students overall scored at or above the required level as fluent-English-proficient on the Nevada ELP test. 2) Higher-grade students had lower cumulative passing percentages compared to lower-grade students. 3) The largest differences in cumulative passing rates were associated with initial ELP level and eligibility for special education services. Students with initially higher English proficiency had higher cumulative reclassification rates. Students who were eligible for special education services were recommended for additional support to achieve reclassification.

Haas, Huang, Tran, Yu (2016) "[The achievement progress of English learner students in Utah](#)" Washington: U.S. Department of Education, Regional Educational Lab at WestEd.

This study researched three cohorts of ELs from Kindergarten, 3rd Grade, and 6th Grade in Utah. It found: 1) After six years, more than 90 percent of EL students scored at or above the required level of fluent-English-proficient on the Utah ELP test. 2) Higher-grade students had lower cumulative passing percentages on all three tests compared to lower-grade students. 3) The largest differences in cumulative passing rates were associated with initial ELP level and eligibility for special education services. EL students with initially higher English proficiency had higher cumulative reclassification rates. All EL students who were eligible for special education services were considered to need additional support to achieve reclassification.

Motamedi, Jason, Singh, Malkeet, Thompson, Karen (2016). [English learner student characteristics and time to reclassification: An example from Washington State](#). Washington: U. S. Department of Education, Regional Educational Lab at Education Northwest.

This study researched cohorts of ELs who entered kindergarten in seven different Washington districts. It found: 1) Students who entered kindergarten as ELs took a median of 3.8 years to develop the English proficiency necessary to be reclassified. 2) ELs entering kindergarten with advanced English proficiency were more likely to be reclassified in their first eight years of school than those entering with basic or intermediate proficiency: those entering with advanced English proficiency took a median of 3.0 years to be reclassified, and those entering with basic or intermediate proficiency took a median of 4.4 years.

Hakuta, K., Butler, Y. G., & Witt, D. (2000). [How long does it take English learners to attain proficiency?](#) Berkeley: University of California, Linguistic Minority Research Institute.

This study analyzed two California districts known for having high-quality LIEPs. One district studied had 1,872 students in Grade 6 who had been in the district and classified EL since kindergarten; the other studied had a random sample of 122 students in grades 1, 3, and 5 from all students who had been in

the district and classified as EL since kindergarten. Attainment of oral English proficiency for over 90% of students was achieved after five full academic years in both districts, while academic English proficiency was attained after seven years.

**Kieffer, M., & Parker, C. (2016).** [Patterns of English Learner Student Reclassification in New York City Public Schools](#). Washington: U.S. Department of Education, Regional Educational Laboratory Northeast & Islands.

This study examined longitudinal patterns to determine the median time to reclassification of EL students as former EL students, and the probability that a student becomes a long-term EL, in New York City Public Schools. After six years, 75 percent of all students who entered kindergarten as ELs were reclassified. The median time to reclassification for all students who entered kindergarten as ELs was four years. The median time to reclassification was about a year longer for ELs who entered New York City public schools in grade 6 or 7 rather than in kindergarten--ranging from three years for students entering in grade 2 to more than five years for students entering in grade 7.

### **B. Age and Time-to-Proficiency**

**Conger, D. (2009).** [Does Age of School Entry Affect How Quickly Students Can Learn English?](#) *Social Science Research* 38 (2009) 383-396.

Using data on young ELs who enrolled in the New York City public school system, this study found approximately half of the students became proficient within three years after school entry, but younger students learned more quickly than older students. The report stated that the results lend support to the theory that older students face developmental barriers to learning new languages quickly.

### **C. Native Language Proficiency and Achievement**

**García-Vázquez, E., Vázquez, L. A., López, I. C., & Ward, W. (1997).** [“Language proficiency and academic success: Relationships between proficiency in two languages and achievement among Mexican-American students.”](#) *Bilingual Research Journal*, 21(4), 334-347.

This study indicated a positive significant relationship between level of Spanish literacy and standardized achievement in reading and written English. The study consisted of 291 randomly selected Mexican-American students in grades six through twelve, ranging in age from 12-18 years, with the majority 12-15 years old. A positive correlation was found among Spanish literacy and reading and composite achievement, and English vocabulary subtest scores. The strongest significant correlations were found between Spanish written language and all standardized English-language achievement scores. While the study did not look at the relationship between Spanish proficiency and attainment of oral English language proficiency, or time-to-proficiency (it was based on performance at one point in time), it is suggestive of possible relationships between native language proficiency and faster time-to-proficiency in English; these require further research.

### **D. Time in LIEPs and Time-to-Proficiency**

**Umansky, I. and Reardon, S. (2014).** [Reclassification Time patterns among Latino English learner students in bilingual, dual immersion, and English immersion classrooms.](#) *American Education Research Journal*, 2014, Vol 51 (5), 879-912.

In a study of nine cohorts of Latino ELs, from 2000-12, 50% of students were reclassified after 6 years in an English immersion (EI) program and after 7 years in a dual immersion (DI) program (designed to increase students' ability in their native Spanish while also teaching English). Among students at the end of high school, the rate of reclassification was 68% for EI students and 75% for DI students. Thus, there

was a slight range in the time needed in an LIEP, between 6 and 7 years, to achieve 50% reclassification. There was also a modest range in the percentage of students ultimately reclassified.

**Slavin, R. E., Madden, N. A., Calderón, M. E., Chamberlain, A., & Hennessy, M. (2011). "[Reading and language outcomes of a five-year randomized evaluation of transitional bilingual education.](#)" *Educational Evaluation and Policy Analysis*, 33 (1), 47-58.**

This study examined the English language and reading performance of Spanish-dominant children randomly assigned, beginning in kindergarten, to transitional bilingual education (TBE) or structured English immersion (SEI) for periods of up to 5 years. First graders in TBE performed poorly in English. By fourth grade, however, after 5 years in an LIEP, all students in TBE had transitioned to English-only instruction, and Spanish-dominant students had become fully bilingual in English and Spanish in both TBE and SEI.