



## Accountability for English Language Learners

### I. Office for Civil Rights (OCR)

- a. Title VI of the Civil Rights Act of 1964
  - a. Prevention of discrimination based on race, color or national origin
    1. Provide equal educational opportunity to language minority students (English Language Learners – ELLs)
- b. Lau vs. Nichols – May 25, 1970
  - a. Directed school districts to take steps to help ELL students overcome language barriers and to ensure that they can participate meaningfully in the districts' educational programs
- c. The Office of Civil Rights' Title VI Language Minority Compliance Procedures – December 3, 1985
- d. Policy Update on Schools' Obligations Toward National Origin Minority Students with Limited English Proficiency – September 27, 1991
  - a. Additional guidance: staffing, transition and/or exit criteria, program evaluation, special education, gifted and talented

**UNDER FEDERAL LAW:** programs to educate children with limited proficiency in English must be:

1. Based on a sound educational theory
2. Adequately supported so that the program has a realistic chance of success
3. Periodically evaluated and revised, if necessary

### OCR – Title VI compliance

1. Program must provide for English language development
2. The approach must provide for meaningful participation of ELL students in the district's educational program

### II. Definition of Limited English Proficient According to No Child Left Behind

<http://www.ed.gov/legislation/ESEA02/>

Title IX General Provisions, Part A Definitions

Section 9101 (25) Limited English Proficient. The term "limited English proficient", when used with respect to an individual, means an individual:

- 1) who is aged 3 through 21
- 2) who is enrolled or preparing to enroll in an elementary school or secondary school;
- 3)
  - a) who was not born in the United States or whose native language is a language other than English;

- b)
  - i) who is a Native American or Alaska Native, or a native resident of the outlying areas; and
  - ii) 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
- c) 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
- 4) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual:
  - a) the ability to meet the state's proficient level of achievement on state assessments;
  - b) the ability to successfully achieve in classrooms where the language of instruction is English; or
  - c) the opportunity to participate fully in society.

### III. Title III – NCLB

LEAs must provide high-quality language instruction educational programs that are based on scientifically based research demonstrating effectiveness in increasing English proficiency and student academic achievement in the core academic subjects. An LEA must select one or more methods of instruction to be used in the programs and activities and provide evidence that the programs chosen are based on scientific research in teaching LEP students.

LEAs are required to provide high-quality professional development to classroom teachers (including teachers in classroom settings that are not the setting of language instruction educational programs), principals, administrators, and other school or community-based organizational personnel that is:

- Designed to improve the instruction and assessment of LEP students
- Designed to enhance the ability of such teachers to understand and use curricula, assessment measures, and instruction strategies for LEP children
- Based on scientifically based research demonstrating the effectiveness of the professional development in increasing children's English proficiency, or substantially increasing the subject matter knowledge, teaching, and teaching skills of teachers
- Of sufficient intensity and duration to have a positive and lasting impact on the teachers' performance in the classroom (excluding activities such as one-day or short-term workshops and conferences unless the activity is a component of an established comprehensive professional development program for an individual teacher)

Each LEA must implement an effective means of outreach to parents of limited English proficient children. LEAs must inform such parents about how they can be active participants in assisting their children to learn English, achieve at high levels in core academic subjects, and meet the same challenging State academic achievement standards as all other children are expected to meet.

LEAs must inform parents of:

- The reasons for identifying their child as being Limited English Proficient and for placing their child in a language instruction educational program for LEP students
- The child's level of English proficiency
- The method of instruction that will be used in the program
- How the program will meet the educational strengths and needs of the child
- How the program will help the child learn English and meet academic achievement standards
- The program exit requirements, including expected rate of transition, and the expected rate of graduation from secondary school

- How the program will meet objectives of an IEP for a child with a disability
- Their rights, including written guidance that
- specifies the parent's right to have their child immediately removed from a language instruction educational program upon their request
- Describes the options that parents have to decline to enroll their child in such a program OR to choose another method of instruction if available

### **The No Child Left Behind Act of 2001 NCLB and English Language Learners**

- NCLB reauthorizes a variety of federal education programs found in the Elementary and Secondary Education Act (ESEA), replacing the Improving America's Schools Act (IASA) which became law in 1994.
- NCLB in no way undermines or amends the holdings in Plyer v. Doe, Lau v. Nichols, or Castaneda v. Pickard.
- NCLB requires desegregations of data for English Language Learners for the purpose of determining Adequate Yearly Progress (AYP).
- All ELLs must be tested annually for English language proficiency.
- All ELLs in grades 3 through 8 must be included in the reading and math tests required by the NCLB. These students cannot be exempted from these tests due to their English language proficiency.
- NCLB requires that an ELL must be tested in reading and language arts in English if he/she has attended U.S. schools for at least three consecutive years. On a case-by-case basis an ELL may be given up to two additional years grace period before the ELL is testing in English.

**Summary of  
No Child Left Behind Assessment Provisions  
For Limited English Proficient Students**

Title I Part A	Title III Part A
<p>Academic Assessments must be:</p> <ul style="list-style-type: none"> <li>• Statewide</li> <li>• The primary means of establishing AYP</li> <li>• Beginning 2005-06 annual assessment for math and reading/language arts in grades 3-8</li> <li>• Beginning 2007-08 including science once in each grade span (3-5, 6-9, 10-12)</li> </ul> <p>All students must be assessed:</p> <ul style="list-style-type: none"> <li>• Reasonable accommodations and adaptations for students with disabilities</li> <li>• Inclusion of LEP students               <ul style="list-style-type: none"> <li>○ Reasonable accommodations</li> <li>○ Valid and reliable assessment</li> <li>○ Language and form likely to yield accurate data until student attains English language proficiency</li> <li>○ After 3 consecutive school years language arts assessment must be given in English</li> </ul> </li> <li>• Include all students who have been in school for full academic year</li> </ul> <p>Aggregate and disaggregated results must be reported for school, LEA, and state:</p> <ul style="list-style-type: none"> <li>• Major racial/ethnic</li> <li>• LEP</li> <li>• Migrant</li> <li>• Students with disabilities</li> <li>• Economically disadvantaged</li> <li>• Gender</li> </ul> <p>Beginning 2002-03 annual assessment of English proficiency of all LEP students:</p> <ul style="list-style-type: none"> <li>• Oral language</li> <li>• Reading in English</li> <li>• Writing in English</li> <li>• Report number and percent of students attaining proficiency by end of each school year</li> </ul>	<p>Annually assess English proficiency of all LEP students:</p> <ul style="list-style-type: none"> <li>• Develop proficiency</li> <li>• Meet state content and student achievement standards</li> </ul> <p>Those receiving Title III funds: Biennial evaluation:</p> <ul style="list-style-type: none"> <li>• Progress of LEP students toward proficiency               <ul style="list-style-type: none"> <li>○ Comprehension</li> <li>○ Speaking</li> <li>○ Listening</li> <li>○ Reading</li> <li>○ Writing</li> </ul> </li> <li>• Progress toward meeting challenging state standards as described in Section 1111(b)(3) of Title I</li> <li>• Progress toward meeting annual measurable achievement objectives</li> <li>• Number of all LEP students and percent of students attaining proficiency by the end of each school year</li> <li>• Progress of students no longer receiving LEP services (2 additional years)</li> </ul> <p>Annual measurable achievement objectives:</p> <ul style="list-style-type: none"> <li>• Annual increase in number or percent of students making progress in learning English</li> <li>• Annual increase in number or percent of students reaching proficiency by end of year</li> <li>• Making AYP for LEP students</li> </ul>

## Title III Part A – Guidance on Standards, Assessments, and Accountability

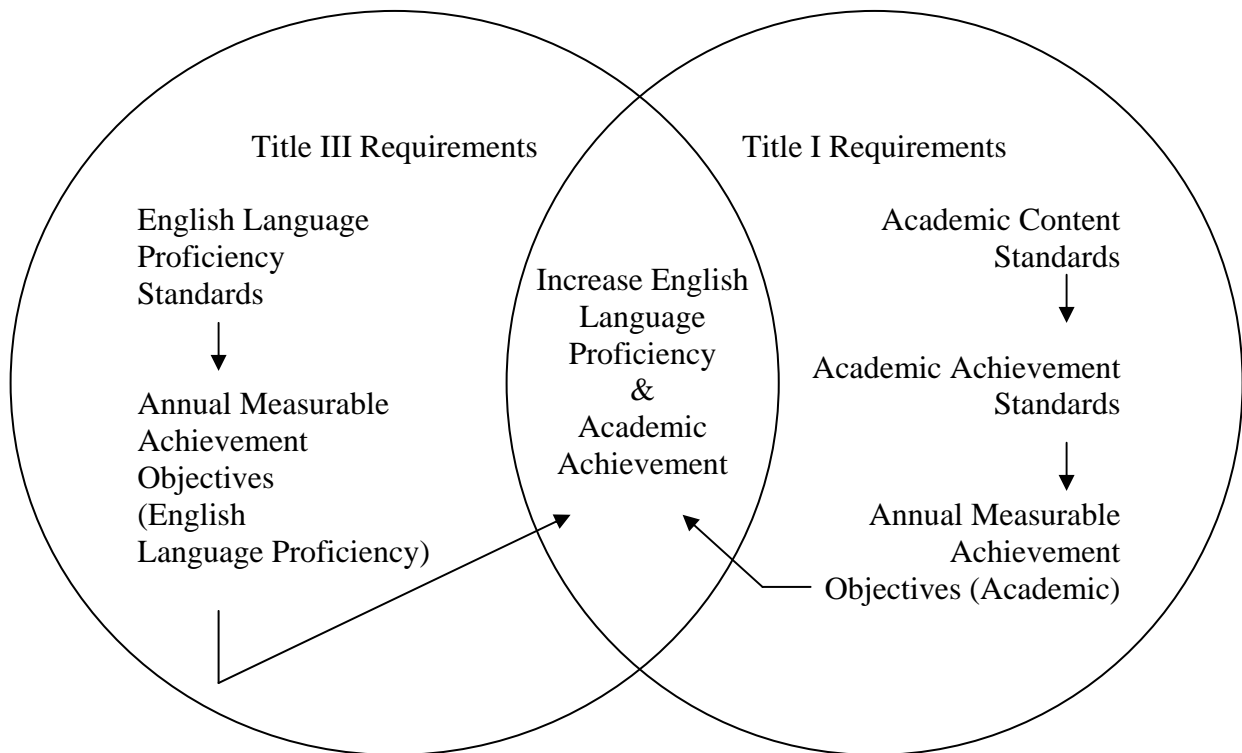
### English Language Proficiency Standards and Annual Measurable Achievement Objectives

Under NCLB, States are required to establish three types of standards and two types of annual measurable achievement objectives. These standards and objectives are different under Title III and Title I, but are interrelated in establishing State achievement targets and accountability systems.

The three standards and the two sets of annual measurable achievement objectives are:

- English Language Proficiency Standards, Title III (for LEP students only)
- Academic Content Standards, Title I (for all students, including LEP students)
- Student Academic Achievement Standards, Title I (for all students, including LEP students)
- Title III English Language Proficiency Annual Measurable Achievement Objectives (for LEP students only), and
- Title I Annual Measurable Achievement Objectives (for all students, including LEP students)

The terms shown in the diagram below are defined throughout this section of the guidance.



**IV. IDEA**

No special education label or services can be assigned if the Limited English Proficiency (LEP) of an English Language Learner (ELL) is the reason for impaired placement.