

ENGLISH LEARNERS *and*

ESSA

What Educators Need to Know

A TESOL Resource Kit

Purpose of the Resource Kit

The Every Student Succeeds Act (ESSA) resource kit is designed to help TESOL members learn about the essential components of the ESSA, which is the reauthorized Elementary and Secondary Education Act (ESEA; formerly known as No Child Left Behind). It is important to understand that ESEA is the primary statute that funds primary and secondary education in the United States. It is often viewed as a civil rights law, as it promotes equal access to education for all students and establishes high standards and accountability for the most disadvantaged students—including English learners (ELs). As such, there are many new aspects of the recently enacted law that affect the overall education of ELs and will impact classroom practice, how English as a second language teachers will be prepared and supported, and the activities of state educational agencies and local school districts.

While there are additional laws and court decisions that govern the ability to educate ELs, this resource kit focuses primarily on the role of the U.S. Department of Education, the federal funds available, and the resulting requirements of state and local school districts in the K–12 education system. The resource kit is designed to provide an

overview of the updated law and a summary of the major provisions organized by title as well as in-depth analysis of portions most pertinent to teachers of ELs in K–12 schools across the United States that receive federal funds.

While an overview of each of the new law's titles is provided, the resource kit explores in an in-depth manner the first four titles of ESSA, which outlines: (1) how funding for low-income school districts is allocated and accountability measures for states (Title I), (2) how funds for states and districts are distributed and can be used for teacher training and professional development (Title II), (3) how technical assistance and funding of instruction for ELs will be made available and new data reporting requirements (Title III), and (4) how funds will be allocated to states and districts for school enrichment and flexibility (Title IV).

The hope is that TESOL members will use this resource kit as a resource to help educate themselves and others to advocate for policies, funding uses, and other priorities at the local and state levels to improve instruction for ELs so these students can achieve language proficiency and academic success.

Table of Contents

ESSA Overview	3
Purpose and Introduction	3
Timeline and History of Key ESEA Reauthorizations and Civil Rights Statutes	3
History of EL Education	3
How ESSA Came to Be	4
Shifts From NCLB and ESEA Waivers	5
ESSA: Essential Framework	5
ESSA: New Provisions and Flexibility	6
ESSA Implementation Timeline	7
Summaries of Major Title Provisions	8
Title I: Improving Basic Programs Operated by State and Local Educational Agencies	8
<i>Why Title I Matters</i>	8
<i>Overview</i>	8
Title II: Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders	11
<i>Why Title II Matters</i>	11
<i>Overview</i>	11
Title III: Language Instruction for English Learners and Immigrant Students	13
<i>Why Title III Matters</i>	13
<i>Overview</i>	13
Title IV: 21st Century Schools	14
<i>Why Title IV Matters</i>	14
<i>Overview</i>	14
Title V: State Innovation and Local Flexibility	15
Title VI: Indian, Native Hawaiian, and Alaska Native Education	15
Title VII: Impact Aid	15
Title VIII: General Provisions	16
Title IX: Education for the Homeless and Other Laws	16
Stakeholder Engagement	17
What the Law Requires	17
Title III Engagement and Resources	17
Resources and Strategy for Engagement	24

Table of Contents (continued)

Title I: In-Depth	25
Funding Authorizations	25
State Plans	25
State Standards	26
Assessments	26
Accountability	27
Funding Flexibility	30
Secretarial Authority	30
Title II: In-Depth	31
Part A: Supporting Effective Instruction	31
<i>Formula Funding to States</i>	31
<i>Funding Flexibility</i>	31
<i>Teacher Evaluation Systems and Provisions</i>	32
Part B: National Activities	32
<i>LEARN Program: Overview</i>	32
<i>Learn Program: State Uses of Funds</i>	33
Title III: In-Depth	34
Title III, Part A: English Language Acquisition, Language Enhancement, and Academic Achievement Act	35
National Professional Development Program	37
National Clearinghouse	38
Title IV: In-Depth	39
Part A: Student Support and Academic Enrichment Grants	39
Part B: 21st Century Community Learning Centers	40
Appendix A. Definitions in ESSA	41
Appendix B. Helpful ESSA Resources	44

ESSA Overview

Purpose and Introduction

The Elementary and Secondary Education Act (ESEA) was first passed in 1965 by President Lyndon B. Johnson. This major education bill was created in response to the growing need for the Federal Government to improve the quality of education for low-income students across the United States. ESEA is the major education law that governs how state educational agencies (SEAs) and local educational agencies (LEAs) spend federal dollars and conduct the education of millions of public school students from pre-K to 12th grade. This law was passed almost 10 years before the Equal Education Opportunity Act, which prohibits deliberate segregation on the basis of race, color, and national origin.

Since 1965, ESEA has been reauthorized eight times to keep up with shifting demands in education and the country as a whole. Reauthorization is the process by which Congress prescribes changes, additions, and deletions to a federal statute. Through this process, legislation is developed that adjusts the current programs to meet the changing needs in K–12 education. The last reauthorization of ESEA occurred in 2002 when President George W. Bush and Congress reauthorized ESEA and renamed it the No Child Left Behind Act (NCLB). Starting with President Reagan in 1981, each time ESEA has been reauthorized, it has been given a new name.

Timeline and History of Key ESEA Reauthorizations and Civil Rights Statutes

- 1965** The Elementary and Secondary Education Act (ESEA) authorized; signed by President Johnson.
- 1967** Bilingual Education Amendment passed and adds funding into ESEA for English language instruction.
- 1974** *Lau v. Nichols* Supreme Court decision affirms that all children, including those who are ELs, must be provided an equal education opportunity.
- 1974** The Equal Education Opportunity Act ensures that schools nationwide provide equal education opportunities for students, including language-minority students; signed by President Nixon.

- 1979** Department of Education (formerly the Department of Health, Education, and Welfare) established as an executive agency under President Carter.
- 1981** ESEA reauthorized as the Education Consolidation and Improvement Act; signed by President Reagan.
- 1982** *Plyler v. Doe* Supreme Court decision affirms that public school districts cannot deny immigrant students a free public education.
- 1994** ESEA reauthorized as the Improving America's Schools Act; signed by President Clinton.
- 2002** ESEA reauthorized as the No Child Left Behind Act (NCLB); signed by President George W. Bush.
- 2011** Obama Administration institutes ESEA waivers to ease mandates of NCLB.
- 2015** ESEA reauthorized as the Every Student Succeeds Act; signed by President Obama.

The Elementary and Secondary Education Act (ESEA) was first passed in 1965 by President Lyndon B. Johnson. This major education bill was created in response to the growing need for the Federal Government to improve the quality of education for low-income students across the United States.

History of EL Education

ORIGINS

Seeking to address issues surrounding civil rights in schools, Senator Ralph Yarborough (D-TX) introduced the Bilingual Education Act (BEA) in 1967. The BEA was designed to address dismal performance and high dropout rates caused by English-only policies following a decade of antiforeign sentiment throughout the United States. With a new federal focus, the BEA underscored important cultural shifts that highlighted the Federal Government's responsibility to educate immigrants. Originally part of the 1967 reauthorization of ESEA, the BEA was included as Title VII of the law. Specifically, the BEA authorized competitive grants to distribute funds directly to school districts so

that they could invest in greater resources, training, and development to teach language-minority students English. At this point in time, participation by school districts was voluntary and program evaluations occurred at the end of each year, and successful programs received funding for 5 additional years.

SUPREME COURT INVOLVEMENT

Because programs were voluntary and because the BEA's original language was open to broad interpretation by states, many civil rights activists during the late 1960s and early

1970s argued the ESEA violated the rights of many minority-language students because it did not serve their educational requirements.

In the landmark decision of *Lau v. Nichols* (1974), which involved a class-action lawsuit brought by Chinese-American students against the San Francisco School District for its lack of English as a second language (ESL) programs and help for its language-minority students, the Supreme Court ruled in favor of the students, noting that a lack of equal

education access due to language-based discrimination is a proxy to national origin discrimination, which is a violation of Title VI of the Civil Rights Act. Following the ruling, Congress passed the Equal Education Opportunity Act, amending the ESEA and extending the Lau ruling across all school districts in the United States. This forced all school districts to provide ESL programs to ELs regardless of funding. To assist states in implementing more programs focused on English language proficiency, funding for BEA increased from \$7.5 million in 1968 to \$68 million in 1974.

CHANGES FROM 1984 THROUGH 2002

Throughout the last half of the 1970s and the 1980s, Congress continued to amend the BEA (Title VII of

ESEA) in an effort to increase the flexibility and autonomy of school districts in implementing effective language instruction programs. This implementation included increasing professional development for teachers and expanding the definitions of bilingual programming. Funding also continued to increase to supplement state and local funds. As part of the 1994 ESEA reauthorization process, new language establishing proficiency goals for all students was infused throughout the law and Title VII discretionary grants were included. Looking to build upon the original premise of the BEA, Congress added new grant programs that promoted bilingualism along with new proficiency goals.

NCLB AND THE BIRTH OF TITLE III

With the passage of NCLB in 2002, the role of the Federal Government in terms of oversight, mandates, and accountability greatly increased as new standards and assessment requirements were established. The BEA was renamed the English Language Acquisition, Language Enhancement, and Academic Achievement Act and became Title III of the statute. The program also changed to a formula-funded program that emphasized the importance of English language instruction and ELs attaining proficiency as soon as possible while simultaneously meeting the same academic standards in English language arts and mathematics as their English-speaking peers. With this new emphasis, support for bilingual education significantly decreased. If LEAs did not reach their language proficiency goals (or annual measurable achievement objectives), schools could be labeled failing and not meeting adequate yearly progress (AYP) with resulting penalties.

How ESSA Came to Be

NCLB represented a significant step forward for our nation's children in many respects, particularly as it shined a light on the progress of many subgroups of students that had been traditionally overlooked: low-income students, students of color, ELs, and students with disabilities.

Congress began its work to reauthorize NCLB beginning in 2007. However, Congress could not agree on a new and

Because programs were voluntary and because the BEA's original language was open to broad interpretation by states, many civil rights activists during the late 1960s and early 1970s argued the ESEA violated the rights of many minority-language students because it did not serve their educational requirements.

updated version; various bills were drafted and debated by the House Committee on Education and the Workforce and the Senate Committees on Health, Education, Labor and Pensions. During this time, NCLB's mandates became increasingly unworkable for schools and educators.

In 2011, in response to Congress' inability to reauthorize the law, the U.S. Department of Education allowed states to apply for ESEA waivers to help relieve them from the unworkable provisions of NCLB. While relieving states of requirements for AYP, the waivers also created greater ambiguity in terms of accountability. Ultimately, 43 states, the District of Columbia, and Puerto Rico were granted waivers.

Early in 2015, under the leadership of Chairman Lamar Alexander (R-TN) and Ranking Member Patty Murray (D-WA) of the Senate Committee on Health, Education, Labor and Pensions and their counterparts from the House Committee on Education and the Workforce, Chairman John Kline (R-MN) and Ranking Member Bobby Scott (D-VA), a carefully negotiated law was crafted. The Every Student Succeeds Act (ESSA) was designed to reduce the role of the Federal Government in mandating state education policy and to provide more flexibility.

In December 2015, the House passed ESSA by a vote of 359–64 and the Senate passed the bill by a vote of 85–12. President Obama signed the bill into law on 10 December 2015. Final regulations are still pending, and full implementation of the law is not required until the start of SY 2017-18. The new law reauthorizes ESEA until 2020. More details regarding the new law and key dates to remember are shared within this resource kit.

Shifts From NCLB and ESEA Waivers

ESEA waivers were in effect until 1 August 2016. Between the start of SY 2016-17 and start of SY 2017-18, states are required to transition from waivers to ESSA requirements. Under ESSA, it is officially made clear that states are in charge of their Title I planning and accountability systems with some basic requirements and key guardrails that the Department of Education must oversee. The pendulum has swung away from federal mandates to federal monitoring.

The major shifts under ESSA

The new law

- reduces the role of the federal government,
- allows for more fiscal flexibility,
- eliminates the requirement to implement state-designed teacher evaluation systems and/or link results to student test scores,
- eliminates AYP and “highly qualified teacher” provisions,
- shifts the focus from “college and career readiness” to “all children [receiving] a high-quality education” and “[closing] student achievement gaps,” and
- expands support for early learning and other factors affecting student learning, including literacy.

ESSA: Essential Framework

The basic architecture of ESSA is the same as current law. States must continue to test students annually in Grades 3–8 and once in high school in English language arts (ELA) and mathematics. Science assessments are still required once in the three grade bands (3–5, 6–8, high school), and states are required to set “challenging academic standards that apply to all children and all public schools.” Schools, districts, and states must also continue to disaggregate student data by student subgroups and use this data as the basis for a state-designed accountability system.

While ESSA mandates district and school intervention in the lowest performing 5% of schools and in high schools graduating less than 67% of students, it does not specify what the specific interventions should be—this is left to the state to define and determine with school districts.

NCLB represented a significant step forward for our nation's children in many respects, particularly as it shined a light on the progress of many subgroups of students that had been traditionally overlooked: low-income students, students of color, ELs, and students with disabilities.

The bottom line is—there is a huge shift that moves more authority regarding the design of accountability systems and interventions from the federal level to states and districts. (See Table 1 for a comparison between the structures of NCLB and ESSA.)

ESSA: New Provisions and Flexibility

ESSA provides SEAs and LEAs with greater flexibility in its new provisions.

- States must adopt English language proficiency standards that are aligned with their state academic standards to ensure that English language proficiency is a part of state accountability. Previously, English language proficiency accountability was part of Title III in NCLB.
- ESSA allows transfer of funds between Title II (school leader recruitment and training) and Title IV (21st century schools). It is up to states to decide use of resources.

- A new comprehensive birth through Grade 12 literacy program—Literacy for All, Results for the Nation (LEARN)—was authorized as a set-aside (funds reserved for future use) of Title II National Program Activity funds.
- ESSA allows, but does not require, supplemental support services.
- States determine the “evidence-based” interventions to implement in lowest performing schools. Districts determine interventions (and timing) when subgroups lag behind.
- State report cards require substantial, easy-to-understand information for the public (including parents).

Important provisions to note: TESOL members will want to pay particular attention to how states will determine and create new language proficiency standards for ELs. Identifying key state-level individuals involved in this process and providing information, assistance, and

Table 1 Structure of NCLB and the ESSA

No Child Left Behind (2002)	Every Student Succeeds Act (2015)
<p>No Child Left Behind Titles:</p> <ul style="list-style-type: none"> • Title I: Improving the Academic Achievement of the Disadvantaged • Title II: Preparing, Training, and Recruiting High Quality Teachers and Principals • Title III: Language Instruction for Limited English Proficient and Immigrant Students • Title IV: 21st Century Schools • Title V: Promoting Informed Parental Choice and Innovative Programs • Title VI: Flexibility and Accountability • Title VII: Indian, Native Hawaiian, and Alaska Native Education • Title VIII: Impact Aid • Title IX: General Provisions 	<p>Every Student Succeeds Act Titles:</p> <ul style="list-style-type: none"> • Title I: Improving Basic Programs Operated by State and Local Educational Agencies • Title II: Preparing, Training, and Recruiting High-Quality Teachers, Principals, and Other School Leaders • Title III: Language Instruction for English Learners and Immigrant Students • Title IV: 21st Century Schools • Title V: State Innovation and Local Flexibility • Title VI: Indian, Native Hawaiian, and Alaska Native Education • Title VII: Impact Aid • Title VIII: General Provisions • Title IX: Education for the Homeless and Other Laws

guidance in this effort will be critical. In addition, new flexibility between state-formula Title II and (state-opted) Title IV grant funding will provide an opportunity for TESOL members to participate in priority setting for use of these funds at the local and state levels.

ESSA Implementation Timeline

May–August 2016: Department of Education issues draft regulations, solicits comments from stakeholders, and finalizes regulations to submit for Congressional approval.

1 August 2016: No Child Left Behind (NCLB) ESEA waivers end, and states will not be required to deliver follow-up actions previously required under waivers unless related to areas covered by both NCLB and ESSA.

August–October 2016: Department of Education to issue guidance on homeless students, ELs, early learning, Title II, and Title IV.

1 October 2016: Effective date for changes to the funding for competitive grant programs in ESSA. If a competitive grant program is reauthorized or is “substantially similar to a previous program” that is in the middle of a multiyear grant cycle, then the funding of the grant will continue

for the length of the grant award, subject to annual appropriations. A program that is no longer authorized will get only one more year of funding in Fiscal Year (FY) 2016 (subject to appropriations), and then it will end, even if there are years left in grants made by the program prior to reauthorization.

Effective date for Impact Aid (Title VII, currently funded in FY17).

***October 2016:** Final regulations are published and go into effect.

1 July 2017: Effective date for the changes to all formula programs under ESSA (e.g., Title I funding for disadvantaged students, Title II funding for educator supports, Title IV funding for well-rounded and student support programs).

School Year 2017–2018: All other ESSA provisions go into effect.

*Many observers view this date as an overly optimistic goal. It is likely that final regulations will be published closer to the end of 2016. While the administration has been adamant about finalizing ESSA rules prior to the end of their tenure, much remains to be done under the watchful eye of a wary Congress.

Summaries of Major Title Provisions

Title I: Improving Basic Programs Operated by State and Local Educational Agencies

WHY TITLE I MATTERS

Title I is Congress's attempt to provide all children with the opportunity to receive a fair, equitable, and high-quality education, and to close achievement gaps. Title I is the largest program supporting elementary and secondary education across the United States. Monies from Title I flow first to states and then to local educational agencies (LEAs) based on the number of eligible low-income students. Title I is the vehicle that drives state-designed accountability systems, which include state standards, assessments, and (new) additional school quality indicators that apply to all children in all schools.

Title I is particularly important to instructors of ELs because English language proficiency requirements found in Title III of NCLB have been moved to this Title. ESSA recognizes that developing English language proficiency and mastering academic content knowledge are inextricably tied. Instead of maintaining a separate system for English language proficiency in Title III, ESSA moves accountability for English language proficiency into the state-determined accountability system in Title I. Congress believed that by making this change, states and school districts would have to pay greater attention to improving English language proficiency, as well as academic achievement, for ELs. TESOL members should seek to become engaged in the required stakeholder engagement process that states must use to design and implement new Title I plans impacting schools and districts.

OVERVIEW

SEAs must submit a state Title I plan to the U.S. Department of Education that outlines their ability to meet federal requirements to receive Title I funding. The state plan applies to all traditional public and charter schools in the state. The following is a summary of the standards, assessments, and accountability provisions that states must comply with to receive Title I formula funding.

Standards

- States are required to adopt “challenging” academic standards.
- States must adopt English language proficiency standards that are aligned with the state’s academic standards.
- States may adopt alternate standards for students with the most significant cognitive disabilities.
- The standards must be aligned with the state higher education entrance requirements and therefore allow a student to enter higher education without the need for remediation.
- The standards must be aligned with state career and technical education standards.
- The Secretary of Education is prohibited from mandating or encouraging states to choose a particular set of standards (including Common Core State Standards).

Assessments

- States must annually test students in reading and math in Grades 3–8 and once in high school.
- States must test 95% of students overall and by subgroup in each subject.
- States must identify and make efforts to develop assessments in languages for ELs.
- States must develop an alternate assessment based on alternate academic achievement standards for students with the most significant cognitive disabilities. States must adhere to a cap on use of the alternate assessment at 1% of all students by subject. ESSA prohibits the development of additional alternate assessments.
- States may use computer-adaptive testing.
- States may allow districts to use locally selected, nationally recognized tests in high school in lieu of state reading, math, or science assessment(s).
- States may create their own testing opt-out laws.

Summaries of Major Title Provisions (continued)

- Up to seven states will be invited to participate in a new assessment pilot to create further assessment flexibility under federal law (details are forthcoming).

Accountability: Goals, Plans, & Systems

- States may set their own achievement goals—for both long-term goals and smaller, interim goals. These goals must address: proficiency on tests, English language proficiency, and graduation rates.
- State-set goals must set an expectation that all groups that are furthest behind close gaps in achievement and graduation rates.
- States must submit accountability plans to the U.S. Department of Education. As of this writing, the new ESSA plans will go into effect in the 2017–18 school year.
- States design accountability systems to rate/rank schools and student subgroups in need of intervention and support, and they must identify schools for comprehensive support

and improvement. For a full description of the requirements and how schools are identified for support and how states and districts support schools, see [Title I: In-Depth](#).

Transition From the No Child Left Behind Act

See Table 2 for a comparison between Title I in NCLB and Title I in ESSA.

- Waivers from the NCLB law became null and void on 1 August 2016, but states still have to continue supporting their lowest performing schools (“priority schools”) and schools with significant achievement gaps (“focus schools”) until their new ESSA plans are operational.
- In general, ESSA applies to any competitive federal grant distributed after 1 October 2016.

Table 2 Title I Comparison Chart

	No Child Left Behind (NCLB)	Every Student Succeeds Act (ESSA)
Standards	<ul style="list-style-type: none"> • Requires state standards in reading, math, and science at all grade levels. • Allows states to develop standards in other content areas. • Requires states to apply the same academic standards to all schools and children. 	<ul style="list-style-type: none"> • Requires assurance that states adopt challenging academic content standards in reading, math, and science with three levels of achievement that are aligned with entrance requirements for credit-bearing coursework in the state’s higher education system and with the state’s career and technical education standards. • Prohibits the Secretary of Education from having any authority over a state’s academic standards. • Allows states to adopt standards in other subjects. • Allows states to develop alternate academic achievement standards for students with the most significant cognitive disabilities using a documented and validated standards-setting process.

(continued)

Summaries of Major Title Provisions (continued)

Table 2 (continued)

	No Child Left Behind (NCLB)	Every Student Succeeds Act (ESSA)
State Report Cards	<p>Requires a publicly available annual state report card that includes</p> <ul style="list-style-type: none"> • data on student achievement at each grade level disaggregated by subgroup, • a comparison of the state’s actual achievement to its objectives, • the percentage of students not tested, • the state’s achievement trends over the course of 2 years, • other indicators used to determine AYP, • graduation rates, • information on teacher quality, and • other information as determined by the state. 	<p>Requires a publicly available annual state report card that includes</p> <ul style="list-style-type: none"> • a description of the state accountability system, including all indicators and the weights assigned by the state; • schools identified as in need of support and improvement; • student performance disaggregated by subgroup; • National Assessment of Educational Progress results; • student participation rates in assessments; • student performance on other academic indicators; • graduation rates; • data on performance of ELs; • data collected pursuant to the Civil Rights Data Collection survey; • teacher qualifications, including those with emergency or provisional status; • per-pupil expenditures of federal, state, and local funds; • number and percentages of students taking alternate assessments; and • postsecondary enrollment.
Assessments	<ul style="list-style-type: none"> • Requires state testing in reading and math annually in Grades 3–8 and once in high school. • Requires state testing in science annually in grade bands 3–5, 6–8, and high school. • Allows states to develop assessments in other subjects. 	<p>Same as NCLB but with the following changes:</p> <ul style="list-style-type: none"> • Allows states to use a single annual summative assessment or multiple statewide interim assessments throughout the year that result in one summative score. • Allows districts to use other tests for high schools with state permission. • Allows states to develop and administer computer-adaptive assessments. • Allows states to limit the aggregate amount of time spent on assessments for each grade. • Prohibits the Secretary of Education from specifying any aspect of assessments. • Requires districts to publicly post information on all required assessments, including the amount of time students spend taking the assessments.

(continued)

Summaries of Major Title Provisions (continued)

Table 2 (continued)

	No Child Left Behind (NCLB)	Every Student Succeeds Act (ESSA)
Test Participation	Requires states to administer assessments to at least 95% of students and 95% of each student subgroup.	Maintains requirement that assessments be administered to at least 95% of all students. Allows states to establish their own laws governing “opt-outs” and requires parents to be notified regarding their children’s participation rights in assessments. Consequences for schools that miss this threshold are determined by states and districts.
EL Accountability	Requires districts to annually assess all students with limited English language proficiency.	Shifts accountability for ELs into Title I. Allows schools to phase in the use of ELs’ test results for accountability purposes.

Learn more about [Title I](#).

Learn more about [stakeholder engagement](#).

Title II: Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders

WHY TITLE II MATTERS

Title II provides grants to state educational agencies (SEAs) and subgrants to LEAs to improve the quality and effectiveness of teachers, principals, and other school leaders; to increase the number of teachers, principals, and other school leaders who are effective in improving student academic achievement in schools; and to provide low-income and minority students greater access to effective teachers, principals, and other school leaders.

Title II is the primary funding source to support the professional development of teachers, principals, and other school leaders. This is not only important for English as a second language instructors to improve their own practice, but it is also critical for general education teachers and school leaders who need strong professional development to increase their capacity to effectively educate ELs in content areas and to work in partnership with English language instructors. TESOL members can provide input to state Title II plans on priorities and use of funds to ensure they are spent on effective and evidence-based practices that funnel resources to the schools, educators, and students who need them most.

OVERVIEW

ESSA allows but does not require states to design teacher-evaluation systems. The law also eliminates the “high-quality teacher” provisions in NCLB. Under ESSA, teachers in schools receiving Title I funds need only to fulfill their state’s certification and licensing requirements. Special education teachers are required to hold a bachelor’s degree and meet state certification requirements. (See [Table 3](#) for a comparison between Title II in NCLB and Title II in ESSA.)

The \$2.3 billion state teacher-quality grants program formula (also known as the state allotment formula) for allocating these funds considers both student population and poverty. As part of ESSA, Congress rewrote the formula to weight the poverty factor more heavily. It also did away with the minimum award amount guaranteed to each state (in place since 2002).

Funding for national activities is included in Title II for the following activities:

- Development of teacher/school leader incentive programs and grants
- Literacy education programs and grants (including early reading and K–12 programs)
- American history and civics education programs
- School leader training and recruitment
- State-led science, technology, engineering, and math (STEM) master teacher corps programs

Summaries of Major Title Provisions (continued)

Table 3 Title II Comparison Chart

	No Child Left Behind (NCLB)	Every Student Succeeds Act (ESSA)
Highly Qualified Teachers	<ul style="list-style-type: none"> Requires 100% of teachers in core academic subjects to be “highly qualified,” which is defined as follows: <ul style="list-style-type: none"> Existing teachers must have a bachelor’s degree, demonstrate subject-matter knowledge in the areas taught, and hold a certification or license in the subject taught. New teachers must have a bachelor’s degree and pass subject-matter tests. 	<ul style="list-style-type: none"> Eliminates “high-quality teacher” requirements. Requires state plans to provide assurance that all teachers and para-professionals working in programs supported by Title I funds meet state certification and licensure requirements.
Teacher Equity	<ul style="list-style-type: none"> Requires schools receiving Title I A funds to ensure that poor and minority children are not taught by inexperienced, unqualified, or out-of-field teachers at higher rates than other children. 	<ul style="list-style-type: none"> Maintains the equitable distribution requirement but replaces “unqualified” with “ineffective.”
Definition of Professional Development	<ul style="list-style-type: none"> Defines professional development as activities that improve teachers’ knowledge in the subjects they teach, enable them to become highly qualified, are aligned with content standards, and advance understanding of instructional strategies. 	<ul style="list-style-type: none"> Updates the definition of professional development to ensure personalized, ongoing, job-embedded activities that are <ul style="list-style-type: none"> available to all school staff, including paraprofessionals; part of broader school improvement plans; collaborative and data driven; developed with educator input; and regularly evaluated. Creates new teacher, principal, and school leader academies to help meet the need for effective educators in high-need schools. Creates new teacher residency programs to enhance clinical training opportunities for teachers.
Funding Allocations	<ul style="list-style-type: none"> Requires schools to use Title II funds to prepare, recruit, and retain teachers and principals. Allocates Title II funds to states based on 35% of a state’s school-age population and 65% of its school-age population living in poverty. 	<ul style="list-style-type: none"> Changes the Title II formula to 20% based on school-age population and 80% based on school-age population living in poverty, phased in over a 4-year period. Maintains Teacher Quality Partnership Grants and revises the Teacher Incentive Fund to include school leaders. Allows the use of Title II funds to, among other activities, reform certification systems; improve alternate routes to certification; and improve recruitment and retention of teachers, principals, and school leaders.
Teacher Evaluation	<ul style="list-style-type: none"> Does not require teacher evaluations; however, requires states that received NCLB waivers to create or improve their teacher evaluation systems. 	<ul style="list-style-type: none"> Does not require teacher evaluation systems, but if Title II funds are used to create or change school district evaluation systems, they must be based on multiple measures, and in part on student achievement. Precludes the Secretary of Education from prescribing any aspect of educator evaluation systems or measures of effectiveness.

Learn more about [Title II](#).

Learn more about [stakeholder engagement](#).

Title III: Language Instruction for English Learners and Immigrant Students

WHY TITLE III MATTERS

Title III maintains the primary purposes found in NCLB, which are to help ensure that ELs, including immigrant children and youth, attain English proficiency and develop high levels of academic achievement as well as to assist teachers (including preschool teachers), administrators, and other school leaders develop and enhance their capacity to provide effective instructional programs. Title III also continues to promote participation in language instruction educational programs for the parents, families, and communities of ELs.

An important new requirement, however, for TESOL members to take note of is that states now must establish and implement, after consultation with LEAs representing the geographic diversity of the state, standardized EL entrance and exit procedures. This includes a requirement that all students who may be ELs are assessed for that status within 30 days of enrollment in a school within the state.

Title III is important for TESOL members because it provides supplemental funds and support to states and its subgrantees to assist ELs in reaching language proficiency as well as the same challenging state academic standards that all students are expected to meet. Advocates should be familiar with how Title III and Title I work in tandem for school accountability purposes. Most important, however, there may be a number of opportunities for TESOL members to engage and share their expertise with state officials as they begin to implement and design new accountability systems, effective programs of instruction, and statewide entrance and exit procedures. This includes important decisions on how states will annually assess the English proficiency of ELs and how states will define the new requirements of the law, such as “long-term goals” and “interim measures of progress” for ELs. Such decisions need expert input, which TESOL members can provide.

OVERVIEW

As stated above in the Title I Overview, ESSA shifts accountability for English language proficiency from

NCLB’s Title III to Title I. As part of their Title I plans, states must demonstrate they have adopted proficiency standards that are derived from the domains of speaking, listening, reading, and writing; address the different proficiency levels of ELs; and are aligned with the state’s academic standards.

Despite these changes, Title III continues to authorize a program of formula grants to states to improve the education of ELs and immigrant students by assisting children and youth to learn English and meet challenging state academic standards, with a small portion retained at the federal level for national activities similar to NCLB. A new provision in Title III requires states to develop statewide entrance and exit criteria and procedures for ELs in addition to a system to monitor the progress of identified ELs on English language proficiency and academic assessments. However, no longer is a state required to establish annual measurable achievement objectives for the English language acquisition and academic achievement of ELs. While it is left up to a state to develop its own monitoring system, Title III does contain provisions outlining what an SEA must report on every 2 years to demonstrate the progress of ELs.

Like in NCLB, all Title III funds must be used to supplement local, state, and federal funds that, in the absence of Title III funds, would otherwise be expended for programs for ELs and immigrant children and youth. These Title III funds may in no case supplant such existing federal, state, and local funds.

A competitive discretionary grant program run by the Department of Education called the National Professional Development Project is also maintained from NCLB. This grant program supports professional development activities to improve classroom instruction for ELs and assists educational personnel working with ELs to meet high professional standards, including standards for certification and licensure.

It is also important to recognize that throughout the law, the term “limited English proficient,” or LEP, is now replaced with “English learner” or EL.

Lastly, in September 2016, the Department of Education issued [nonregulatory guidance](#) on Title III of ESSA for states and districts. The guidance includes

information and resources for state, district, and school personnel, including

- use of Title III funds to serve ELs;
- design and delivery of language instruction educational programs;
- key information on family, parent, and community engagement;
- key information on distinct populations of ELs, including early learners, former ELs, immigrant students, and ELs who are also students with disabilities;
- clarifications of the rights ELs have under federal civil rights law related to supports and services; and
- a list of publications and resources for administrators and educators who work with ELs.

This guidance will help inform the work done to all states and to school districts receiving Title III funds as they transition to the new requirements under ESSA.

Learn more about [Title III](#).

Learn more about [stakeholder engagement](#).

Title IV: 21st Century Schools

WHY TITLE IV MATTERS

The purpose of Title IV, Part A, “Student Support and Academic Enrichment Grants,” is to improve students’ academic achievement by increasing the capacity of SEAs, LEAs, schools, and communities to provide all students with access to a well-rounded education; improve school conditions for student learning; and improve the use of technology in order to increase the academic achievement and digital literacy of all students.

A number of education stakeholders view this block grant program as critically important because it is the primary funding source to support enrichment, extracurricular, and wrap-around services and support systems for students. Title IV is also important for TESOL members because it is the primary vehicle for increasing the availability and capacity of teachers to use technology in the classroom—a tool that has been shown to have

positive effects on EL instruction. Additionally, Title IV is the portion of the law that focuses on family engagement efforts and also helps ensure that EL teachers and students are fostering positive school climate and conditions for effective instruction. Advocates will want to see a fully funded Title IV, Part A program in the first years of ESSA so that states can receive adequate funds to ensure LEAs have the resources necessary to provide enrichment and support for students—particularly as complementary funding to Title II teacher professional development and for the use of technology and the arts.

Note: Title IV also includes provisions for quality charter schools, magnet schools, school safety, and academic enrichment. This resource kit does not provide an in-depth overview of these programs.

OVERVIEW

Activities and programs funded by grants to states under Title IV, Part A support access to a well-rounded education and must be coordinated with other schools and community-based services and programs. This coordination can be in the form of partnerships with higher education institutions, businesses, nonprofits, community-based organizations, or other public or private entities. Activities that can be funded by states receiving grants include

- college and career guidance and counseling programs;
- programs and activities that use music and the arts as tools to support student success through the promotion of constructive student engagement, problem solving, and conflict resolution;
- programming and activities to improve instruction and student engagement in STEM, including computer science; and
- efforts to raise student academic achievement through accelerated learning programs.

Learn more about [Title IV](#).

Learn more about [stakeholder engagement](#).

Title V: State Innovation and Local Flexibility

The purpose of Title V is to allow SEAs and LEAs the flexibility to direct federal funds to the programs and activities that most effectively address the unique needs of states and localities. Provisions related to transferability of funds and rural education initiatives are authorized in this title. This part of the law also updates and strengthens grants to charter schools and evidence-based magnet school programs.

Title V provides more flexible use of federal funding to enable rural districts to more effectively implement programs. It maintains the authorization of the Small, Rural School Achievement (SRSA) Program and the Rural and Low-Income School (RLIS) program. Additionally, it allows for dual eligible districts, those eligible for both SRSA and RLIS, to choose which program they would like to apply to for funding.

Title VI: Indian, Native Hawaiian, and Alaska Native Education

The purpose of Title VI is to support Indian, Native Hawaiian, and Alaskan Native Education. It helps support LEAs, Indian tribes, postsecondary institutions, and other entities meet the academic needs of American Indian, Native Hawaiian, and Alaskan Native populations; ensure they gain an understanding of their languages, cultures, and histories; and ensure staff have the ability to provide culturally appropriate and effective instruction.

Through Title VI, ESSA authorizes approximately \$160 million annually from 2015 through 2020 (an increase of 6%) for grants to LEAs. Allowable uses of Title VI funds include

- native language restoration programs;
- cultural activities;
- early childhood and family programs focused on school readiness;
- enrichment programs that directly support attaining state standards;

- educational services that increase parental involvement and student achievement;
- career preparation activities to assist in participation of career and technical education programs;
- violence, abuse, and suicide prevention activities;
- culturally responsive teaching and learning training;
- family literacy programs;
- dropout prevention strategies;
- assistance for American Indian students in correctional facilities or transitioning from those facilities; and
- professional development to increase the capacity and number of qualified teachers for these populations.

Title VII: Impact Aid

The purpose of Title VII is to authorize funding for schools in districts that have low or zero property tax revenue due to proximity to federal property (such as tribal and military land). Since 1950, Congress has provided financial assistance to these local school districts through the Impact Aid Program, which has been amended numerous times since its inception. The program continues, however, to support local school districts with concentrations of children who reside on American Indian lands, military bases, low-rent housing properties, and other federal properties, or who have parents in the uniformed services or employed on eligible federal properties.

Most Impact Aid funds, except for the additional payments for children with disabilities and for construction, are considered general aid to the recipient school districts; these districts may use the funds in whatever manner they choose in accordance with their local and state requirements. Most recipients use these funds for current expenditures, but recipients may use the funds for other purposes, such as capital expenditures. School districts use Impact Aid for a wide variety of expenses, including the salaries of teachers and teacher aides; purchasing textbooks, computers, and other equipment; afterschool programs and

remedial tutoring; advanced placement classes; and special enrichment programs.

Title VII also includes new language that replaces the complicated, outdated Impact Aid formula with a simple, objective calculation for program eligibility. Stakeholders believe this will remove the funding subjectivity from the program and will speed up payments to school districts across the country.

The total authorized amount for programs funded under Title VII would grow from nearly \$1.3 billion annually to approximately \$1.4 billion annually from 2015 through 2020.

Title VIII: General Provisions

Title VIII provides definitions of terms, outlines the use of administrative funding, and details waivers, among other regulations. As with NCLB, a state may request a waiver from the Secretary of Education for specific statutory or regulatory provisions under ESSA. However, ESSA prohibits the Secretary from requiring states or schools to adopt specific standards or assessments, such as the Common Core State Standards, or specific state accountability systems or teacher evaluation models to qualify for a waiver.

Title IX: Education for the Homeless and Other Laws

The purpose of Title IX is to cover provisions related to homeless children and youth. ESSA would increase funding under Part A of Title IX, which provides funding for homeless children, from approximately \$65 million annually in 2015 to \$85 million annually from 2017 through 2020.

Notably, Title IX will house the new federal preschool program authorized by ESSA and authorize annual funding at \$250 million. The new preschool program will be housed at the Department of Health and Human Services and jointly administered with the Department of Education. Funding will be available to states to help coordinate existing government preschool programs, such as those operated by the states and Head Start, and to establish new preschool programs.

Stakeholder Engagement

ESSA allows education leaders and stakeholders to rethink their own accountability, funding, school improvement, and grant-making systems by gathering input from the people who know their states and districts best. The new federal law requires extensive outreach and engagement efforts to everyone from policymakers to educators to tribal organizations to parents, prompting many states to rethink their definitions of meaningful engagement. The National Parent Teacher Association has put together a compilation of the [ESSA Stakeholder Engagement Provisions](#). The resources listed at the bottom of their document, in particular, will be useful tools for TESOL members who want to become active with their SEAs to help form state and local accountability plans.

What the Law Requires

In June 2016, the Department of Education [issued guidance](#) on stakeholder engagement and outlined certain categories of people that should be consulted in developing state plans along with recommendations for high-quality engagement to create wide access, garner substantive input, and ensure transparency.

ESSA names the following groups to be consulted for ESSA plans:

- **State Title I Planning:** governor, members of the state legislature and state board of education, local educational agencies (LEAs; including those located in rural areas), representatives of American Indian tribes located in the state, teachers, principals and other school leaders, charter school leaders (if the state has charter schools), specialized instructional support personnel, paraprofessionals, administrators, other staff, and parents.
- **Local Title I Planning:** teachers, principals and other school leaders, paraprofessionals, specialized instructional support personnel, charter school leaders (if the LEA has charter schools), administrators (including administrators of programs described in other parts of this title), other appropriate school personnel, and parents.

- **Local Title IV Planning:** parents, teachers, principals and other school leaders, specialized instructional support personnel, students, community-based organizations, local government representatives, American Indian tribes or tribal organizations (where applicable), charter school teachers, and others with relevant and demonstrated expertise in programs and activities.

Title III Engagement and Resources

The Department of Education is slated to release further nonregulatory guidance on issues related to Title III in the fall of 2016. As part of this process, the Department of Education has solicited input from organizations seeking specific recommendations on what parts of this title need further explanation and clarification to successfully implement these provisions. In response, TESOL has submitted the following comments to the Department of Education:

- [TESOL Comments on non-regulatory guidance for the implementation of ESSA, May 2016](#)
- [TESOL Comments on Notice of Proposed Rulemaking, July 2016](#)

ESSA allows education leaders and stakeholders to rethink their own accountability, funding, school improvement, and grant-making systems by gathering input from the people who know their states and districts best.



Advancing Excellence in
English Language Teaching

May 25, 2016

Secretary John B. King
U.S. Department of Education
400 Maryland Avenue SW, Room 3E231
Washington, DC 20202
Re: Comments on non-regulatory guidance for the implementation of ESSA

Dear Dr. King:

On behalf of TESOL International Association (TESOL), a professional association for English language educators, I would like to thank you for the opportunity to provide recommendations to the Department of Education (ED) on areas in which non-regulatory guidance would be most helpful to assist States, districts and other grantees in understanding and implementing the *Every Student Succeeds Act* (ESSA). TESOL represents over 11,000 English language education professionals from the United States and around the world. Thousands of our members in the U.S. teach English Learners (ELs) who are recently arrived immigrants, migrants and refugees.

TESOL International Association is optimistic that ESSA will provide our nation's growing English learner (EL) population with the necessary support and resources required to become proficient English-speakers and high-achieving students. While the new law continues to emphasize the education of ELs, there are still a number of unanswered questions surrounding the law, as well as steps state educational agencies (SEA) and local educational agencies (LEA) can take to ensure that ESSA meets the needs of our nation's underprivileged and often-overlooked students.

Expanding Enrollment & Outreach for Early Childhood Education

As the EL population in the United States continues to grow, so does the number of refugee and immigrant children in need of high-quality early childhood education programs such as Head Start and Early Head Start. SEAs, LEAs, and Head Start grantees should be strongly encouraged to partner with refugee assistance agencies and non-profit organizations at the federal, state and local levels.

A recent report from the Migration Policy Institute (MPI) found that 62% of adult-refugees in the United States spoke little or no English, and were more likely to live in low-income households compared to other immigrant groups. By sharing information and resources between grantees and refugee agencies, the information gap that exists within many refugee communities could be greatly reduced, allowing more families to receive the educational and social services provided

Letter: TESOL Comments on non-regulatory guidance for the implementation of ESSA, May 2016, page 2 of 2

through early childhood education programs. The same report found that when partnerships were made between Head Start grantees and refugee organizations, enrollment of refugee children increased to nearly 9% in the case of programs located in Syracuse, New York, compared to the national average of only 3%.

Title III & Title I Funding Interactions

With the addition of English language development to the Title I accountability system, clarity is needed about the interaction of Title III and Title I funding streams. How can Title III funding be used to help supplement English language instruction efforts under Title I? ED should give clear guidelines and instructions to SEAs and LEAs on how the new funding structures affect English language instruction and accountability for English language development.

Additionally, ED should clarify the consequences of using funding to supplant, not supplement the education of students under Titles I and III. In general, there seems to be a lack of clarity when it comes to the consequences of states who do not follow the regulations set forth in ESSA. Since states have far greater flexibility to set goals and measure accountability, ED needs to issue clear guidance to all stakeholders to ensure that high-levels of achievement are being sought by states.

Recruiting and Training New Teachers

While residency programs funded through Title II of ESSA will increase the number of teachers in our most disadvantaged districts, ED should provide the state and LEAs with best practices for teacher preparation. With the flexibility of LEAs and SEAs to define effective teachers and effective teaching skills, it is important to offer these residency programs guidance on how to best prepare future teachers for careers in underserved schools. These best practices should include a greater emphasis on working directly with ELs and children with special needs to broaden the knowledge and understanding of students with different backgrounds and educational challenges.

Thank you for the opportunity to provide input as the Department begins to draft guidance. TESOL looks forward to working with you and your staff in moving forward with the implementation of ESSA.

Sincerely,



Rosa Aronson, PhD, CAE
Executive Director

Letter: TESOL Comments on Notice of Proposed Rulemaking, July 2016, page 1 of 4



Advancing Excellence in
English Language Teaching

July 29, 2016

Secretary John B. King, Jr.
U.S. Department of Education
400 Maryland Avenue SW, Room 3E231
Washington, DC 20202
Re: Docket ID ED-2016-OESE-0032, Comments on Notice of Proposed Rulemaking

Dear Dr. King:

On behalf of TESOL International Association (TESOL), a professional association for English language educators, I would like to thank you for the opportunity to provide comments and feedback to the Department of Education (ED) concerning the proposed rulemaking for accountability and state plans as they pertain to the *Every Student Succeeds Act* (ESSA). TESOL represents over 11,000 English language education professionals from the United States and around the world. Thousands of our members in the U.S. teach English Learners (ELs), many of whom are recently arrived immigrants, migrants and refugees.

TESOL is optimistic that ESSA will provide our nation's growing EL population with the necessary support and resources required to become proficient English-speakers and high-achieving students, and sincerely appreciates the opportunity to help guide ED through the rulemaking process, especially as those rules affect teachers and ELs across our country. We especially appreciate the fact that the Department has taken into account current research in the draft regulations in regards to English learners and the English language development process. As has been well documented, the population of English learners is incredibly heterogeneous, and often changes dramatically from year to year within a school district. The efforts to acknowledge the diversity of the English learner population, and the many factors that impact the English language development process, are positive steps forward in helping to provide an equitable education for all students.

As TESOL and its members are focused on English-as-a-second-language (ESL) education, our comments are focused on the following sections of the draft regulations:

Goals for Progress in Achieving English Language Proficiency (§200.13)

TESOL appreciates the efforts by ED in requiring states to determine goals for progress in achieving English language proficiency for their English learners. While setting goals at the state level is impractical, TESOL supports the recommendation that states establish uniform procedures for setting long-term goals and measurements of interim progress for English learners that can be applied consistently and equitably to all English learners. The association has long advocated that accountability decisions for English learners take into account language proficiency level, so we appreciate and support the requirement that this serve as the basis for long-term goal setting.

1925 Ballenger Avenue, Suite 550, Alexandria, VA 22314 | p: +1 703.836.0774 | f: +1 703.836.7864 | www.tesol.org

Teachers of English to Speakers of Other Languages

Letter: TESOL Comments on Notice of Proposed Rulemaking, July 2016, page 2 of 4

TESOL also supports and applauds the efforts that ED has made to recognize the diverse needs and abilities of ELs in other parts of §200.13, particularly within the proposed regulation requiring states to take at least one student variable into account when determining long-term goals for ELs. Currently these variables include: time in language instruction, age, grade level, native language proficiency, and limited or interrupted formal education. This requirement is a good start, but TESOL believes ED should go further in requiring states to take all of these factors into consideration when creating long-term EL goals, not just a minimum of one. Furthermore, TESOL recommends that ED require states to take into account the total time an English learner has been in U.S. schools, as many students may have recently arrived in a district, but may have been in U.S. schools for several years.

In addition, the socioemotional needs of EL students should be taken into consideration when creating goals for achieving English language proficiency, as many ELs come from disadvantaged communities, and others may be recent arrivals to the United States, facing significant challenges as immigrants or refugees. These extenuating circumstances, as well as other hardships many ELs face, can affect their socioemotional wellbeing and should be taken into consideration by Local Education Agencies (LEAs) when setting academic goals for ELs.

Establishing State Determined Maximum Timelines for Achieving English Language Proficiency (§200.13)

Within the proposed rules for accountability, ED solicited comments related to the potential establishment of state-determined maximum timelines for the achievement of English language proficiency for “long term ELs” (§200.13). TESOL cautions that the establishment of such timelines, while certainly ambitious, may not directly result in an increase of English language proficiency by ELs, regardless of their “long term” status. All students, especially ELs, have extremely diverse backgrounds, needs, and abilities, making a prescribed timeline for the attainment of English language proficiency nearly impossible to calculate and adhere to. In addition, setting a maximum timeline may not only create the possibility of added pressure and anxiety on struggling students, but also on their teachers, who may feel overburdened if certain students cannot meet a prescribed deadline for achieving English language proficiency.

Moreover, although students may achieve English language proficiency according to a proficiency assessment, they often are in need of additional support services in order to succeed academically. Establishing a maximum timeline may create an incentive to stop all services, even if a student needs additional support beyond the point that they are determined to be fully English proficient. If the decision is made to require that states determine a maximum timeline, states should then be required to provide research and data to justify the timeline, as well as procedures for allowing exceptions on a case-by-case basis.

Further Defining Subgroups of Students (§200.16)

As acknowledged in the draft regulations, the English learner subgroup is the only population of students categorized by what is a temporal factor: English language proficiency. The size and composition of this subgroup within a state changes as students attain academic-level English

Letter: TESOL Comments on Notice of Proposed Rulemaking, July 2016, page 3 of 4

proficiency (and thus leave the subgroup), and other students with lower levels of English proficiency arrive. Allowing the state to include the academic performance of former English learners for up to four years after they leave the subgroup in the Academic Achievement indicator would provide a more accurate picture of the performance of the English learner population.

TESOL supports the draft regulations that if a state chooses to include the performance of former English learners in this manner, they must include all English learners, and would not be allowed to select only higher-achieving students. This would prevent states from presenting misleading information about the progress of English learners.

TESOL also supports the draft regulations that states either select a single statutory exemption for the inclusion of recently arrived English learners in its accountability system and apply that exemption uniformly, or that states determine uniform procedures for making student-level decisions that take into account the English language proficiency level and other characteristics. If states choose the latter option, the procedures should take into account all the other characteristics, parallel to the recommendations made under §200.13.

Disaggregation of Data as it Relates to n-Size (§200.17)

Current proposed regulations set the n-size for reporting data on subgroups at no more than 30 students. As many states have lowered their n-size over the last several years, TESOL is concerned that such a high n-size will allow some schools to hide data on subgroups that do not meet the 30 student threshold for data reporting. For example, after lowering its n-size from 50 to 30, Virginia saw 139 schools held accountable for ELs, up from 104. Even more significantly, after lowering the n-size from 50 to 30, Mississippi schools responsible for reporting data on ELs increased from 15 to 447. In order to include data on the greatest number of ELs, while still protecting their identity, TESOL recommends that final regulations set the n-size to 10 students.

Summative Ratings for School Performance (§200.18)

TESOL urges ED to promote transparency about school quality and performance by removing the proposed regulation that reduces the entirety of a school's performance to a summative number or grade. These summative ratings can, as ED itself noted in the proposed regulations, hide the poor performance of a school in a particular area, such as English language proficiency. Instead, ED should only promote a dashboard that includes a school's performance on multiple academic and school quality indicators. By having clear, disaggregated data at the forefront of the school rating system, parents and stakeholders, who have been entrusted with improving student outcomes, will be accurately informed.

Supporting of All Students, Entrance and Exit Procedures for ELs (§299.19)

While ED revised the language of §299.19, TESOL recommends that ED add clarifying language pertaining to students who have exited the English Learner subgroup to stress that exited students have attained English language proficiency, but may still be receiving services from the LEA. While the

Stakeholder Engagement (continued)

Letter: TESOL Comments on Notice of Proposed Rulemaking, July 2016, page 4 of 4

regulations are clear that the criteria must be applied to both the Title I subgroup and the Title III services, LEAs may still provide support services with local funds. Without clarification, the possibility exists for assuming that the exit criteria, as required by ESSA, are establishing deadlines for when students are eligible for services, even if state and local funds may be used to provide additional support services for students who are determined to have achieved English proficiency.

Thank you for the opportunity to provide input as ED finalizes ESSA rules and regulations. TESOL looks forward to working with you and your staff in moving forward with the implementation of this important legislation, and in improving education for all our learners.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rosa Aronson', written in a cursive style.

Rosa Aronson, PhD, CAE
Executive Director

Resources and Strategy for Engagement

As stated throughout this document, there are many opportunities and reasons for TESOL members to become engaged with state leaders as they work to implement ESSA. Provided here are some resources that are particularly useful for helping you become involved in your state's planning efforts. In general, the first point of contact to identify within your state is the individual at the state educational agency (SEA) who is leading the agency's outreach and engagement efforts. While each state will have its own individual process and systems, and some are more transparent than others, many SEAs will provide ESSA contact information on their website. If you are unable to identify a key ESSA contact at your SEA, the following resource provides a list of contacts (with emails and phone numbers) in each state who are involved in the engagement portion of the state planning process:

[State Departments of Education Contacts for Stakeholder Engagement in ESSA Implementation:](#)

Contains contacts to reach out to for all 50 states and the District of Columbia to get started with the engagement process. (NAACP Legal Defense Fund)

Once you have established a connection and identified the right contact, you must then determine how to most effectively engage in your state-led process and how to share recommendations, input, and feedback. In some states, this may mean attending an open forum, joining a committee, submitting written comments, or attending a listening session with state officials. You can do this as an individual or you may want to form a coalition with allied organizations. The following resource provides a compilation of strategies and best approaches for becoming involved in your state's ESSA conversation and planning.

[Let's Get This Conversation Started: Strategies, Tools, Examples, and Resources to Help States Engage with Stakeholders to Develop and Implement Their ESSA Plans:](#) A curation of the different ways states are engaging with stakeholders and how to best give feedback to state planners. (Council of Chief State School Officers)

Title I: In-Depth

This section discusses Title I of ESSA in detail, with a focus on the following topic areas:

- Funding Authorizations
- State Plans
- State Standards
- Assessments
- Accountability
- Funding Flexibility
- Secretarial Authority

As Title I is the largest part of ESSA with the most amount of funds associated with its purpose areas, this section goes into the particulars of how the funding for Title I works as well as the requirements that states must meet in order to receive Title I funding—which includes developing a state plan for how these funds will be used and submitting it to the Department of Education.

Funding Authorizations

The following is an outlay of authorized funding levels for Title I, Part A of ESSA as well as funding levels for the transition years. It should be noted that beginning in 2017, School Improvement Grants will be eliminated as a separate program, but the NCLB 4% set-aside by states from their Title I allocation for school improvement is increased to 7%.

FY 2016 Appropriation: \$15,349,802

This is a combined \$14,909,802 + \$450,000 (FY 2016 Appropriation for School Improvement Grants)

FY 2017 Budget Request: \$15,359,802

For FY 2017–2020, Part A Grants to local educational agencies (LEAs) are authorized in the following amounts:

FY 2017: \$15,012,318

FY 2018: \$15,457,459

FY 2019: \$15,897,371

FY 2020: \$16,182,345

Other Parts of Title I

State assessments: \$378,000,000 for FY 2017–2020

Education of Migratory Children: \$374,751,000 for FY 2017–2020

Neglected, Delinquent, or At-Risk Children and Youth: \$47,614,000 for FY 2017–2020

State Plans

State educational agencies (SEAs) are now required to actively engage and include input from other interested parties in the state in the development of their Title I plan. This represents a significant change from NCLB.

Title I plans must ensure coordination among programs in the following laws: Individuals with Disabilities Education Act, Rehabilitation Act, Perkins Career and Technical Education Act, Workforce Innovation and Opportunity Act, Child Care Development Block Grant, Education Sciences Reform Act, Education Technical Assistance Act, McKinney-Vento, and Adult Education and Family Literacy Act (which is part of the Workforce Innovation and Opportunity Act). Additionally, states must participate in the National Assessment of Educational Progress known as NAEP.

- SEAs must submit a Title I plan to the Department of Education. This plan must have been developed in “meaningful” consultation with
 - governors;
 - members of the state legislature;
 - state board of education;
 - LEAs;
 - American Indian tribes; and
 - teachers, principals, and parents.

State Standards

The biggest change in state standard setting related to ELs is that now states must adopt English language proficiency standards derived from the four recognized domains of speaking, listening, reading, and writing that address the different proficiency levels of ELs and that are aligned with the state's academic standards. This is largely a restatement of similar language that was in Title III of NCLB, although the earlier language did not require that the English proficiency standards address the different English proficiency levels

The biggest change in state standard setting related to ELs is that now states must adopt English language proficiency standards derived from the four recognized domains of speaking, listening, reading, and writing that address the different proficiency levels of ELs and that are aligned with the state's academic standards.

of ELs. That is, they could previously establish a single definition of "proficiency" rather than defining multiple proficiency levels.

States must also define and adopt "challenging standards" in English language arts (ELA), mathematics, and science. States may include also include standards in any other subject they choose. ESSA's language moves away from "college and career

readiness," which was required under ESEA waivers, to the new terminology of "challenging state standards." The focus is now on whether students can transition to postsecondary education without remediation and/or career training.

Standards must

- adopt language proficiency standards for ELs that are aligned with the state academic standards;
- apply to all public schools and all public school children;
- align with higher education institution entrance requirements without the need for remediation;
- align with the relevant state career and technical education standards; and
- allow for alternate academic standards for students with the most significant cognitive disabilities, aligned to challenging state standards.

Assessments

ACADEMIC CONTENT ASSESSMENT

ESSA continues the NCLB requirement that states' reading or language arts, math, and science assessments provide for the inclusion of ELs, who must be assessed in a valid and reliable manner and provided appropriate accommodations (including, to the extent practicable, assessments in the language and form most likely to yield accurate information on what those students know and can do in the content area assessed) until they have attained English proficiency as measured through the English proficiency assessments administered in the state.

ESSA also continues the NCLB provisions requiring that states assess, using tests administered in English, the reading or language arts proficiency of any student who has attended school in the United States (not including Puerto Rico) for at least three consecutive years, except that an LEA may extend the period in which a student may be assessed in another language if it determines that doing so would yield more accurate and reliable information and the student has not yet attained a sufficient level of English proficiency to be tested in English.

Separately, ESSA permits states to exclude, from one administration of ELA assessments (but not math), "recently arrived English learners," who are defined as ELs who have been enrolled in U.S. schools for less than 12 months. *This language was not in NCLB but is consistent with regulations the Department of Education issued on implementation of the statute.* Alternatively, a state may assess and report on the performance of a recently arrived EL student in ELA and math for each year of his or her enrollment in a school. If a state adopts this option, it must

1. for a student's first year of enrollment in the school, exclude his or her assessment results from the school's accountability determinations;
2. for the student's second year of enrollment, include a measure of his or her academic growth in those determinations; and
3. for the student's third year and each succeeding year, include a measure of his or her proficiency in those determinations.

Overall, states must take the following measures:

- Conduct statewide, annual assessments in ELA and mathematics in Grades 3–8 and once in high school.
- Assess not less than 95% of all students and 95% for each subgroup.
- Identify and make efforts to develop assessments in languages for ELs.
- Conduct statewide assessment in science once in each grade band 3–5, 6–9, and high school.
- Develop an alternate assessment based on alternate academic achievement standards for students with the most significant cognitive disabilities. States must cap student participation in these alternate assessments at 1% of all students by subject. ESSA prohibits development of additional alternate assessments.

States may

- exclude ELs from one administration of ELA assessment or exclude the assessment results for accountability purposes for one year,
- allow computer-adaptive testing,
- allow LEAs to develop innovative assessments under the Innovative Assessment Pilot (up to seven districts within a state may participate in the pilot once the U.S. Department of Education makes this available), and
- allow LEAs to use a nationally recognized high school assessment in lieu of state assessment.

LANGUAGE PROFICIENCY ASSESSMENT

ESSA requires the state ensure that its LEAs provide for an annual assessment of the English proficiency of all ELs in their schools. These assessments must align with the state's English proficiency standards. *NCLB had similar language but did not require alignment of the assessments with state English proficiency standards.*

Accountability

The state must establish and define “long-term goals” as well as “interim measures of progress” for all students to meet state English language arts and math standards. Though states no longer have to establish a finite goal (e.g., every student reading proficiently by a certain year), they must have clear ways to measure interim progress toward longer incremental goals (e.g., 90% of students graduating and then measuring against that number each year).

ESSA also requires that a state's accountability system include long-term goals and interim measures of progress for “increases in the percentage of ELs who make progress in achieving English proficiency,” as defined by the state and as measured by the state's English language proficiency assessments, within a state-determined timeline. *NCLB did not require inclusion of an English language proficiency indicator as part of adequate yearly progress (AYP).* Instead, Title III had its own accountability system under which states held LEAs accountable for reaching three annual measurable achievement objectives, one of which was achieving annual increases in the number or percentage of ELs making progress in learning English.

The state's system of performance indicators must include an indicator of the extent to which all ELs in the state are making progress in achieving English language proficiency. Progress toward proficiency is defined by the state and measured by the state's English language proficiency assessments within a state-determined timeline, as determined in each of Grades 3–8 and in the high school grade in which the state administers assessments in ELA and math. The high school English language proficiency assessment data for a student must be measured against the student's results for the previous year.

Specifically with regard to the EL subgroup, the law provides that for not more than 4 years after a student ceases to be identified as an EL, a state may include the results of the student's assessments within the results for the EL subgroup for the purposes of the state accountability system. This is an expansion of what the Title I regulations permitted under NCLB; they allowed states to include (with the EL subgroup) the assessment scores of former ELs for up to **2 years**.

The state still must differentiate between (rate or rank) schools and districts in the state, and that system must use the goals in combination with required indicators (outlined below) to determine how schools and districts are doing. States determine which indicator(s) they will add to the accountability system and are required to involve stakeholders in a process to make these decisions.

INDICATORS

State-designed accountability systems must include the following:

Elementary and Middle Schools

- States need to incorporate at least four indicators into their accountability systems, including (1) proficiency on state tests, (2) English language proficiency, and (3) one other academic factor that can be reported by subgroup (e.g., growth on state tests).
- States are required to add at least (4) one “additional indicator of school quality.” Possibilities include student engagement, chronic absenteeism, school climate/safety, or other indicators that can be reported by subgroup and are comparable in all schools and for all children.

High Schools

- States need to incorporate at least four indicators into their accountability systems, including (1) proficiency on state tests, (2) English language proficiency, and (3) graduation rates.
- States are required to add at least (4) one “additional indicator of school quality.” Possibilities include student engagement, chronic absenteeism, access to and completion of advanced coursework, postsecondary readiness, school climate/safety, or other indicators that can be reported by subgroup and are comparable in all schools and for all children.

Weighting the Indicators

- With the exception of the indicator on EL progress in achieving English proficiency, all of

the above indicators must be measured separately for all students in a school and for each student subgroup.

- States determine the weight of the indicators within their accountability system. However, the academic factors (tests, graduation rates, etc.) must have a “much greater weight” than the other school quality indicators.
- The combined weight of all indicators is used to rank/rate schools to determine which schools and districts must provide targeted intervention and support.
- States determine how large a factor the 95% participation rate is within the accountability system.

SCHOOL PERFORMANCE AND INTERVENTIONS

States must identify schools for comprehensive support and improvement. These schools are:

Performance

- Bottom 5% of all Schools: At least once every 3 years, states must identify and intervene in the bottom 5% of schools.
- Lowest Performing High Schools: States must identify and intervene in high schools where the graduation rate is 67% or less. Schools must be identified and reevaluated at least once every 3 years.
- Consistently Underperforming: States must identify schools where a subgroup (e.g. English learners) is consistently underperforming. The SEA decides the definition of “consistently underperforming,” but it must contain at least one of the following indicators: whether the subgroup will meet the state’s long-term goals, whether the subgroup is performing at the lowest level on any academic indicator, whether the subgroup is below a particular performance level, or another indicator devised by the state.. The

SEA determines the number of years a school has to improve and the exit criteria, and the LEA determines the improvement plan. The SEA must review improvement plans after 4 years.

States must also assure districts identify schools when any subgroup is not meeting state standards.

- **Subgroup Underperforming:** Districts must oversee intervention in any school when one or more subgroup is underperforming. The LEA determines when the intervention begins/ends except if the school is then identified as a consistently underperforming school.

Interventions

For the bottom 5% of schools and for high schools graduating less than 67%:

- Districts work with school teams to come up with an evidence-based plan.
- States monitor the turnaround effort.
- If schools continue to flounder, after no more than 4 years the state is required to step in with its own plan (e.g., take over the school, fire the principal/staff).
- States can make monies available for district/school use (e.g., for tutoring/other support).
- Districts can allow for public school choice out of consistently low-performing schools, but they have to give priority to the students who need it most.

For schools where subgroups of students are struggling:

- Schools must develop an evidence-based plan to target the student subgroup.
- Districts must monitor the plans. If the school continues to fall short, the district would step in, though there's no specified timeline.
- States and districts must come up with a "comprehensive improvement plan" in schools where subgroups are chronically underperforming despite local interventions.

- The School Improvement Grant program is consolidated into the bigger Title I pot, which helps districts educate Title I students. States could set aside up to 7% of all their Title I funds for school improvement, up from 4% in current law.

STATE AND LOCAL REPORT CARDS

ESSA is quite clear about assuring the public has easy-to-understand information on how students are doing in each school, what the qualifications of teachers are, and the funding provided to educate students, among other data. The report cards are required to be posted in ways that the public is easily informed about the status of students by school and by district within the state. ESSA requires states to disseminate an annual state report card that is concise, widely accessible, and developed in consultation with stakeholders.

State report cards must include

- a description of the state's accountability system;
- results on academic achievement, graduation rates, and each other indicator (by subgroup and for students that are homeless, are in foster care, and have a parent in the military);
- information on the number and percentage of ELs' achieving English language proficiency;
- results on NAEP;
- per pupil expenditures; and
- teacher qualifications.

Local report cards must include

- all reporting requirements from the state report card except for NAEP scores and
- information on student achievement on academic assessments across the school district and state.

Funding Flexibility

The biggest change in Title I is the new flexibility that allows states to determine whether the 40% school-wide threshold of students eligible for free and reduced lunch must be met in order to use Title I dollars schoolwide.

Some states may like this flexibility because it would allow

Title I dollars to be used across a school rather than just for a percentage of students, which subsequently reduces paperwork and minimizes accounting practices that require separate bookkeeping and silo funds. Every state will likely operationalize this quite differently, but it is something to watch and understand as the impact on access to resources in certain schools may shift.

The biggest change in Title I is the new flexibility that allows states to determine whether the 40% school-wide threshold of students eligible for free and reduced lunch must be met in order to use Title I dollars schoolwide.

For example, a school that has 35% of students eligible for free and reduced lunch will have more flexibility in use of Title I funds if the state approves a waiver from the 40% requirement.

- **Schoolwide Title I:** Allows states to grant waivers from the requirement that only schools in which students from low-income backgrounds are at least 40% of enrollment can use Title I for schoolwide purposes.
- **Supplement Not Supplant:** States are now only required to show that Title I dollars supplement state and local dollars, and a waiver is not required. Districts are not required to show whether each

expenditure is a core service or is supplemental for Title I purposes.

- **Maintenance of Effort:** Title I still requires districts to spend in their current fiscal year at least 90% of what they spent in the previous fiscal year in order to get at least the same amount of federal funding.

Secretarial Authority

The Secretary of Education may

- oversee implementation of the law;
- approve state assessments through peer review; and
- provide regulations, guidance, and technical assistance consistent with the statute.

The Secretary of Education may not

- prescribe specific goals for student achievement, either long-term or short-term;
- mandate turn-around strategies in the lowest performing schools or intervene in schools;
- coerce, provide incentives with funding, or provide flexibility for states to adopt a particular set of standards, including their English proficiency standards and/or the Common Core State Standards;
- specify any aspect or parameter of evaluations for teachers and school leaders developed at the state and district level;
- force states to use a specific test for accountability; or
- tell states exactly how they must factor in test participation for accountability purposes.

Title II: In-Depth

The following section outlines in detail Title II of ESSA. It focuses on how state and local educational agencies (SEAs and LEAs) can use federal funds to increase student achievement by improving the quality and effectiveness of teachers, principals, and other school leaders through high-quality professional development, preparation, and retention activities.

Additionally, Title II authorizes a new part of the law called Title II, Part B, National Activities. There are several new programs authorized under National Activities, including the Literacy Education for All, Results for the Nation (LEARN) Act. Since 2008, TESOL has been part of a coalition of groups called Advocates for Literacy. This coalition has supported the creation of LEARN, which targets funds to improve the instruction of literacy for struggling students, including ELs, from birth to Grade 12.

Part A: Supporting Effective Instruction

Under Title II, Part A, states receive funding by a formula system and must subgrant 95% to LEAs. Of the 5% states keep, not more than 1% of funds can be used for administrative costs. States may reserve up to 3% of the amount reserved for subgrants to LEAs to support principals and other school leaders.

Under ESSA, teachers in schools receiving Title I funds need only to fulfill their state's certification and licensing requirements.

SEAs and LEAs can choose from multiple allowable uses of funds that are different than state activities. These include activities such as

- induction,
- mentoring,
- professional development,
- alternative certification,
- improving equitable access to effective teachers,
- class size reduction, and
- differential pay systems.

Districts must implement activities to address the learning needs of all children.

FORMULA FUNDING TO STATES

In ESSA, the Title II formula for funding to states was changed so states with a higher number of students in poverty will receive funding that is reflective of their student populations (defined as those aged 5–17). In addition, the minimum award amount guaranteed to each state is eliminated.

This formula change is phased in over 4 years. Specifically, the formula calculation will shift from 35/65 (35% based on a state's total student population and 65% based on student population from families below the poverty line) to:

- 35/65 in FY 2017
- 30/70 in FY 2018
- 25/75 in FY 2019
- 20/80 in FY 2020 and succeeding years.

A [Congressional Research Service](#) analysis projects that, based on the formula changes, by 2023 the following states' and territories' annual allocation will decrease by \$10 million or more from FY 2016: Illinois, Louisiana, Massachusetts, Michigan, New York, Pennsylvania, and Puerto Rico. Conversely, states that will see an increase of \$10 million more from FY 2016 are: California, Florida, Georgia, North Carolina, Tennessee, and Texas.

FUNDING FLEXIBILITY

One of the biggest changes resulting from ESSA is that states and LEAs have new flexibility with formula funds. States are now allowed to transfer none, a portion of, or all of their formula allotment of funds for Title II, Part A; Title IV, Part A; and Title IV, Part B state administrative funds into and between those pots of funding. States may combine most of their ESSA monies as long as they do not take money away from Title I, Part A's intent and uses.

States and districts may*

Title II: In-Depth (continued)

- transfer up to 100% of their Title II formula block grant funds; Title IV, Part A funds; and/or Title IV, Part B state administrative funds to:
 - Title I, Part A (Improving Basic Programs Operated by State and Local Educational Agencies);
 - Title I, Part C (Education of Migratory Children);
 - Title I, Part D (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-risk);
 - Title III, Part A (English Language Acquisition, Language Enhancement, and Academic Achievement Act);
 - and/or Title V Part B (Rural Education Initiative).

**No funds may be transferred out of Title I.*

TEACHER EVALUATION SYSTEMS AND PROVISIONS

Title II, Part A addresses the following teacher-related issues.

Teacher Evaluation Systems

- States may, but are not required to, implement teacher evaluation systems and/or link results to student test scores.
- States may use Title II funds for the evaluation of teachers, principals, and other school leaders. Evaluations and other support systems may be based “in part on student academic achievement.”
- Evaluations must include multiple measures and clear, timely, and useful feedback.

Teacher Provisions

- ESSA eliminates the “high-quality teacher” requirements of current law.
- State must show that Title I teachers are certified by a state’s licensing requirements.
- State report cards must show qualifications of educators.

- Secretarial Authority explicitly prohibits the Secretary of Education from
 - mandating teacher and school leader evaluation systems;
 - defining teachers and other school leaders; and
 - setting the professional standards, certification, and licensure requirements for teachers and school leaders.

Part B: National Activities

Title II, Part B creates the “National Activities” fund for technical assistance, evaluation, and competitive programs.

This includes:

- Teacher and School Leader Incentive Fund
- American History and Civics Education program
- Supporting Effective Educator Development program
- School Leader Recruitment
- STEM Master Teacher Corps
- LEARN Program
- Innovative Approaches to Literacy
- Comprehensive Center on Literacy Instruction for Students with Disabilities

LEARN PROGRAM: OVERVIEW

The LEARN Program is the only federally supported, targeted literacy funding for states to apply for through a discretionary grant process. LEARN supports states investing in birth through Grade 12 teacher professional development and research-based interventions for struggling students, including ELs. TESOL has supported the authorization of this program for a number of years through our work with the Advocates for Literacy Coalition.

The purpose of LEARN is to

- improve student academic achievement in reading and writing by providing federal support to states

to develop, revise, or update comprehensive literacy instruction plans that ensure high-quality instruction and effective strategies in reading and writing from early education through Grade 12; and

- provide targeted subgrants to early childhood education programs and LEAs and their public or private partners to implement evidence-based programs that ensure high-quality comprehensive literacy instruction for students most in need.

The LEARN program builds on the success of the Striving Readers Comprehensive Literacy Program, which has been funded through the appropriations process since 2011 and provided initial funding to the following six states: Georgia, Louisiana, Montana, Pennsylvania, Texas, and Nevada.

This year, with FY 2016 funds, the Department of Education will be initiating a new competition for the second round of 5-year grants. In order to submit an application, an SEA must conduct a needs assessment that analyzes literacy needs across the state and in high-need schools that serve high-need students. This needs assessment includes identifying the most significant gaps in literacy proficiency and inequities in student access to effective teachers of literacy.

The LEARN Program:

- provides competitive grants to SEAs that must then distribute at least 95% of funds to local school districts with priority to entities serving the greatest populations of disadvantaged students in low-performing schools.

- dictates that states must distribute grant funds in a comprehensive manner, supporting programs and activities from birth through Grade 12:
 - Birth through kindergarten entry (15%)
 - K–5 (40%)
 - Grades 6–12 (40%)
- states that LEAs must use these funds to help improve literacy instruction as well as support intervention activities for all students whose literacy skills are below grade level.

LEARN PROGRAM: STATE USES OF FUNDS

States may reserve up to 5% of funds for the following activities:

- Providing technical assistance.
- Coordinating with institutions of higher education in the state to strengthen preservice courses in evidence-based literacy methods.
- Reviewing and updating, in collaboration with teachers and institutions of higher education, state licensure or certification standards in the area of literacy instruction.
- Making information on promising instructional practices publicly available.
- Developing literacy coach training programs and training literacy coaches.
- National evaluation.

Title III: In-Depth

This section focuses on Title III of ESSA in greater detail. ELs compose 10% of the overall student population, and the percentage is growing every year. A key component of ESSA's accountability measures is focused on ensuring that these students achieve language proficiency in addition to core academic skills in English language arts (ELA) and mathematics. While under Title III, ESSA removes the accountability-related provisions of NCLB (because accountability for ELs' English language proficiency and academic progress is now incorporated into Title I), funds are provided in this title to assist states to implement

A key component of ESSA's accountability measures is focused on ensuring that these students achieve language proficiency in addition to core academic skills in English language arts (ELA) and mathematics.

effective language instruction programs and measure growth and support progress of ELs, including immigrant children and youth. Title III remains an important part of ESSA.

The law also recognizes that some groups of ELs have different needs and need extra services to learn English and master academic content. In particular, ESSA

requires disaggregated reporting on ELs with disabilities as well as reporting on the percentage of long-term ELs. Disaggregated data reporting as required in Title I accountability measures will help school districts diagnose areas of weakness and provide extra supports for these students to achieve success.

In summary, the main changes to Title III are as follows:

- It no longer includes language on accountability for the progress of ELs because this responsibility has been subsumed within the Title I accountability requirements.
- It includes a new requirement for the development of statewide entrance and exit criteria and procedures for ELs.
- Throughout the law, the term “limited English proficient,” or LEP, is now replaced with “English learners,” or ELs.

Other revisions to Title III include the following:

- Authorizing state educational agencies (SEAs) to use the 5% state set-aside to provide recognition and financial rewards to local educational agencies (LEAs) that have significantly improved the achievement and progress of ELs.
- Reducing the portion of the state set-aside that SEAs may use for administrative costs from 60% to 50% of the 5% set-aside.
- Authorizing the Secretary of Education to use Census Bureau data or state counts of the number of students assessed for English proficiency, or a combination of those two sources, to compute states' Title III allocations. NCLB required the use of either census or state data and did not permit the two data sets to be blended. (Note that ESSA does not have a “hold-harmless” provision.)
- Requiring SEAs to describe, in their Title III plans, how LEAs receiving subgrants will be given the flexibility to teach ELs using a “high-quality, effective” instructional curriculum and in the manner the LEA determines to be most effective.
- Requiring that the state plan describes the steps that the SEA will take to assist an LEA if the LEA's strategies for educating ELs are not effective.
- Replacing the requirement for Title III local evaluations with a requirement that each subgrantee report to the SEA (every second year) on the programs and activities it has carried out with its Title III funds. The report must also include either the number or percentage of ELs who are
 - making progress in achieving English proficiency (disaggregated for students with disabilities; Note that the language on disaggregation of data on ELs with disabilities is similar to language in Title I requiring states to make public data on achievement, graduation rates, academic indicators, and assessment rates in a manner that permits cross-tabulation by, at a minimum, race

- and ethnicity, gender, EL status, and disability status),
- attaining English proficiency,
- exiting language instruction programs for ELs,
- meeting state academic standards (for each of the 4 years after they exit EL status, and disaggregated for students with disabilities), and
- not achieving English proficiency 4 years after their initial classification as ELs.

Also, the prohibition remains on the federal government that it cannot mandate programs or instruction for states on how to teach ELs. However, after the *Lau v. Nichols* (1974) case and the passage of the Equal Education Opportunity Amendment, instruction for ELs did become mandatory for states under civil rights law. The U.S. Department of Education's Office of Civil Rights does not prescribe a specific intervention strategy or program model that a district must adopt to serve ELs; however, they have issued guidance for states and districts.

The following guidelines have been outlined for school districts to ensure that their programs are serving ELs effectively. Districts should

- identify students as potential ELs;
- assess students' need for EL services;
- develop a program that, in the view of experts in the field, has a reasonable chance for success;
- ensure that necessary staff, curricular materials, and facilities are in place and used properly;
- develop appropriate evaluation standards, including program exit criteria, for measuring the progress of students; and
- assess the success of the program and modify it where needed.

*(Source: <http://www.ncela.us/faqs/view/6>)

Title III, Part A: English Language Acquisition, Language Enhancement, and Academic Achievement Act

The purpose of this federal grant program is to provide supplemental funds to improve the education of ELs, including immigrant children and youth, by assisting the children and youth to learn English and meet challenging state academic content and student academic achievement standards. The purposes of this part are

1. to help ensure that ELs attain English proficiency and develop high levels of academic achievement in English;
2. to assist all ELs to achieve at high levels in academic subjects so that all ELs can meet the same challenging state academic standards that all other children are expected to meet;
3. to assist teachers (including preschool teachers), principals and other school leaders, SEAs, LEAs, and schools in establishing, implementing, and sustaining effective language instruction educational programs designed to assist in teaching ELs;
4. to assist teachers (including preschool teachers), principals and other school leaders, SEAs, and LEAs to develop and enhance their capacity to provide effective instructional programs designed to prepare ELs to enter all-English instructional settings; and
5. to promote participation in language instruction educational programs for the parents, families, and communities of ELs.

In new Title III plans to be submitted by SEAs to the Department of Education, states must

- describe the standardized statewide entrance and exit procedures for ELs;
- explain how the state will assist and monitor the progress of eligible entities in meeting long-term

goals and measures of interim progress for ELs on English language proficiency and academic assessments as established in a state's Title I plan, and the steps the agency will take if strategies are not effective;

- outline how the state will ensure that the unique needs of immigrant children and youth are addressed; and
- provide assurances that state will annually assess the English proficiency of ELs and help build capacity for eligible entities to offer effective language instruction educational programs.

ALLOWABLE USES OF FUNDS FOR STATE ACTIVITIES

In order to meet the goals as established in each state's Title III plan, an SEA receiving a formula grant may reserve up to 5% of funds to carry out one or more of these activities:

- Establishing and implementing standardized statewide entrance and exit procedures for ELs, including a requirement that all students who may be ELs are assessed for such status within 30 days of enrollment in a school in the state.
- Providing effective teacher and principal professional development and preparation activities to improve teaching skills for meeting the diverse needs of ELs.
- Planning, evaluation, administration, and interagency coordination related to the subgrants.
- Offering technical assistance to subgrantees.
- Providing recognition, which may include providing financial awards, to recipients of subgrants that have significantly improved the achievement and progress of ELs in meeting the state-designed long-term goals.

ESSA does change the amount SEAs may reserve for administration of state activities from 60% in NCLB to 50% for *direct* administrative expenses.

ALLOWABLE USES OF FUNDS FOR LOCAL ACTIVITIES

An SEA can only subgrant to an eligible entity if the entity agrees to expend the funds to improve the education of ELs by assisting them to learn English and meet the challenging state academic standards using “effective approaches and methodologies for teaching ELs and immigrant children and youth.” Up to 2% of funds may be used for *direct* administrative expenses, and the SEA determines the duration of a subgrant.

Subgrantees must use their funds to

- increase the English language proficiency of ELs by providing effective language instruction educational programs that increase both language proficiency and student academic achievement;
- provide effective professional development to classroom teachers (including those not in language instruction classrooms), principals, administrators, and other school or community-based personnel; and
- implement effective language instruction programs to engage parents, families, and communities.

Subgrantees may also use funds to

- upgrade program objectives and effective instructional strategies;
- improve instructional programs by acquiring and upgrading curricula, instructional materials, educational software, and assessment procedures;
- provide intensified instruction through tutorials and academic, career, and technical education;
- develop preschool, elementary, or secondary school language instruction educational programs that are coordinated with other relevant programs and services;
- provide community participation programs, family literacy services, and parent and family outreach and training activities;

Title III: In-Depth (continued)

- improve instruction of ELs, including ELs with disabilities; or
- offer early college high school or dual enrollment programs or courses.

REPORTING REQUIREMENTS

ESSA requires each eligible entity that receives a subgrant from an SEA to provide a report every 2 years that includes the following:

1. Description of the programs and activities conducted and how these programs supplemented programs funded primarily with state or local funds.
2. Number and percentage of ELs who are making progress toward achieving English proficiency, disaggregated by ELs with disabilities.
3. Number and percentage of ELs reaching proficiency based on state English language proficiency standards at the end of the school year.
4. Number and percentage of ELs exiting the program based on their attainment of English proficiency.
5. Number and percentage of ELs meeting standards, including those who have no longer received Title III services for up to 4 years, disaggregated by ELs with disabilities.
6. Number and percentage of ELs who have not attained proficiency within 5 years of initial classification.

AUTHORIZED FUNDING LEVELS

The authorization levels for Part A formula grants to states gradually increase from \$756 million in FY 2017 to \$885 million by FY 2020 in the following amounts:

- \$756,332,450 for FY 2017
- \$769,568,267 for FY 2018
- \$784,959,633 for FY 2019
- \$884,959,633 for FY 2020

ESSA updates the data used to make formula allotments to states. These data include

- data from the American Community Survey to determine the number of immigrant children and youth in the state;
- the number of students taking the state English language proficiency assessment;
- a combination of data available from both sources, to determine the number of ELs in a state; and

States can use funds to make subgrants to eligible entities as long as 95% of state funding is used for purposes described in relevant Title III sections. States receive 80% of their funding based on the school-aged EL population in the state proportionally relative to the EL population in all states, and 20% based on the population of immigrant children and youth in the state proportionally relative to the population of immigrant children and youth in all states.

National Professional Development Program

The National Professional Development Program provides professional development grants. Professional development activities may include both preservice and in-service activities. The Secretary of Education must use funds to award 5-year competitive grants to institutions of higher education or public or private entities. These entities must have relevant experience and capacity (in consortia with SEAs or LEAs) to provide for professional development activities that will improve classroom instruction for ELs and assist educational personnel working with ELs to meet high professional standards, including standards for certification and licensure as teachers who work in language instruction educational programs or serve ELs.

National Clearinghouse

Title III authorizes the Secretary of Education to establish and support the operation of a [National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs](#), which shall collect, analyze, synthesize, and disseminate information about language instruction educational programs for ELs and related programs.

The National Clearinghouse shall

- be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system supported by the Institute of Education Sciences;
- coordinate activities with federal data and information clearinghouses and entities operating federal dissemination networks and systems;
- develop a system for improving the operation and effectiveness of federally funded language instruction educational programs;
- collect and disseminate information on
- educational research and processes related to the education of ELs, including ELs with disabilities, that includes information on best practices on instructing and serving ELs;
- collect and disseminate information on accountability systems that monitor the academic progress of ELs in language instruction educational programs, including information on academic content and English proficiency assessments for language instruction educational programs; and
- publish, on an annual basis, a list of grant recipients.

Title IV: In-Depth

This section outlines the relevant portions of Title IV of ESSA. The programs authorized in Title IV support a well-rounded education for students. The largest programs in this title include a new block grant, called the Student Support and Academic Enrichment (SSAE) grant program, and the 21st Century Community Learning Center (21st CCLC) program, which supports before school, afterschool and summer learning programs.

While this section does not explicitly deal with English language instruction, many of the programs that it authorizes provide state educational agencies (SEAs) and local educational agencies (LEAs) the ability to implement programs—and technologies—that support the whole child, thus supporting the success of ELs and their families.

Part A: Student Support and Academic Enrichment Grants

The purpose of Title IV, Part A is to improve students' academic achievement by “increasing the capacity of states, LEAs, schools, and communities to provide students with access to a well-rounded education, improve school conditions for student learning, and improve the use of technology.” It was created as a new flexible block grant program and consolidates many previously authorized programs from current law into one large pot of funding—typically called a block grant—under ESSA.

The Department of Education will disseminate funds to every SEA through a formula; the funds will then be subgranted to LEAs to decide how to use these resources to fund certain programs that their schools may need. In order to receive funding for SSAE grants, states need to submit a state plan to the Secretary of Education for review and approval. If approved, states receive a funding allocation based on the proportion of funding that states receive under Title I. Each state receiving Title IV allocations will then reallocate 95% of Title IV funding to LEAs using the same proportion of funding provided to schools in Title I. The funds allocated to LEAs in this section are to be used for three specific areas:

1. Well-rounded education:
2. LEAs must

3. spend 20% of funds on activities to support “well-rounded” education (e.g., school counseling; music; arts; science, technology, engineering, and mathematics [STEM]; and accelerated learning programs).
4. Safe and healthy students: LEAs must spend 20% of funds on activities to support “safe and healthy” students (e.g., social/emotional learning, violence prevention, school-based mental health services, and bullying prevention.).
5. Technology: LEAs must use a portion of funds to support effective use of technology.

Examples of the use of funds for each area are as follows:

Well-rounded educational experiences

- Accelerated learning courses (i.e., Advanced Placement and International Baccalaureate programs)
- College and career guidance and counseling programs
- STEM, including computer science and foreign language courses
- Music and art programs
- Programs to teach American history, civics, economics, geography, and government

Safe, healthy, supportive, and drug-free environments

- Bullying prevention programs
- Drug and violence prevention programs
- Plans to reduce exclusionary discipline practices
- Resources for school-based counseling and mental health programs (including early identification and intervention programs)
- Social and emotional learning
- Health and safety practices
- High-quality training for school personnel on suicide prevention, school-based violence, trauma, crisis management, and conflict resolution

- Physical and sexual abuse awareness and prevention
- Schoolwide positive behavior interventions and supports

Increased access to personalized learning experiences through the use of technology

- Support and training for teachers and school personnel on effectively using data to improve the instructional experience
- Addressing technology access and readiness needs
- Development of specialized and rigorous academic courses and curricula through the use of technology
- Personalized learning and blended learning opportunities
- Purchase of devices, equipment, software applications, and digital instructional resources

LEAs that receive a formula allocation above \$30,000 must conduct a needs assessment once every 3 years to determine the greatest area of need in the three categories; they also must reserve 20% of their funding for well-rounded education programs and 20% of their funding for safe and healthy school programs. The remaining percentage of funds may be used for technology, personalized learning, professional development, or any of the other programs listed. However, no LEA can use more than 15% of their grant for purchasing technology infrastructure (devices, software, etc.).

Part B: 21st Century Community Learning Centers

The 21st CCLC program provides grants to LEAs and community learning centers to offer academic enrichment activities for students in low performing schools during nonschool hours or when school is not in session (before and after school and during summer break). The 21st CCLC program is a reauthorized program from current law, which has been updated and improved.

21st CCLC grant recipients must use funds to establish or expand activities in community learning centers (which can be school-based or located at a location with a partnering organization, such as a community recreation center or science museum) that provide opportunities for academic enrichment; offer students a broad array of additional services, programs, and activities; and offer families of students served by community learning centers opportunities for active and meaningful engagement in their child's education, including opportunities for literacy and related educational development.

In addition, new language in ESSA allows 21st CCLC funds to be used for expanded learning activities before, during, or after the school day in cases where at least 300 hours are added during the school year and do not take the place of regular school day requirements. Local grant recipients may also use the funding to offer programs to promote family engagement, family literacy, tutoring services, well-rounded education opportunities, mentoring programs, and healthy and active lifestyles programs, among other programs.

Funds are distributed by formula to SEAs. States then run a local competitive subgrant program to distribute the funds to the local level. The program is authorized at \$1 billion for FY 2017 and \$1.1 billion for each of FYs 2018–2020.

Appendix A. Definitions in ESSA

DEFINITIONS, AS USED IN ESSA AND SELECTED FOR RELEVANCY TO EL INSTRUCTION

English Learner

An individual who has difficulties in speaking, reading, writing, and understanding the English language that may be sufficient to deny him or her the ability to meet challenging academic standards.

English Learner With a Disability

A child with a disability as described in [Section 602 of IDEA](#) and defined here:

Child with a Disability

- A. In general.—The term ‘child with a disability’ means a child—
 - i. with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this title as ‘emotional disturbance’), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and
 - ii. who, by reason thereof, needs special education and related services.
- B. Child aged 3 through 9.—The term ‘child with a disability’ for a child aged 3 through 9 (or any subset of that age range, including ages 3 through 5), may, at the discretion of the state and the local educational agency, include a child—
 - i. experiencing developmental delays, as defined by the state and as measured by appropriate diagnostic instruments and procedures, in 1 or more of the following areas: physical development; cognitive development; communication development; social or emotional development; or adaptive development; and
 - ii. who, by reason thereof, needs special education and related services.

Evidence-Based Strategies

When used with respect to a state or local educational agency or school activity, “evidence-based” means an activity, strategy, or intervention that—

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

Extended-Year Adjusted Cohort Graduation Rate

The fraction—

- A. the denominator of which consists of the number of students who form the original cohort of entering first-time students in Grade 9 enrolled in the high school no later than the date by which student membership data must be collected annually by state educational agencies for submission to the National Center for Education Statistics under section 153 of the Education Sciences Reform Act of 2002 (20 U.S.C. 9543), adjusted by—
 - i. adding the students who joined that cohort, after the date of the determination of the original cohort; and

ii. subtracting only those students who left that cohort, after the date of the determination of the original cohort; and

B. the numerator of which consists of the sum of the number of students in the cohort, as adjusted under clause (A), who earned a regular high school diploma before, during, or at the conclusion of—

- i. one or more additional years beyond the fourth year of high school or
- ii. a summer session immediately following the additional year of high school.

Multi-Tiered System of Supports

A comprehensive continuum of evidence-based, systemic practices to support a rapid response to students' needs with regular observation to facilitate data-based instructional decision-making.

Professional Development

Activities that—

- A. are an integral part of school and local educational agency strategies for providing educators (including teachers, principals and other school leaders, specialized instructional support personnel, paraprofessionals, and, as applicable, early childhood educators) with the knowledge and skills necessary to enable students to succeed with a well-rounded education and to meet challenging state academic standards; and
- B. are sustained (not stand-alone, 1-day, or short-term workshops), intensive, collaborative, job embedded, data driven, and classroom focused, and may include activities that—
 - i. improve and increase teachers'—
 - a. knowledge of the academic subjects they teach;
 - b. understanding of how students learn; and
 - c. ability to analyze student work and achievement from multiple sources,

including how to adjust instructional strategies, assessments, and materials based on such analysis;

- ii. are an integral part of broad schoolwide and districtwide educational improvement plans;
- iii. allow personalized plans for each educator to address the educator's specific needs identified in observation or other feedback;
- iv. improve classroom management skills;
- v. support the recruitment, hiring, and training of effective teachers, including teachers who became certified through state and local alternative routes to certification;
- vi. advance teacher understanding of—
 - a. effective instructional strategies that are evidence-based, and
 - b. strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers;
- vii. are aligned with and directly related to academic goals of the school or local educational agency;
- viii. are developed with extensive participation of teachers, principals and other school leaders, parents, representatives of American Indian tribes (as applicable), and administrators of schools;
- ix. are designed to give teachers of ELs and other teachers and instructional staff the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;
- x. to the extent appropriate, provide training for teachers and principals and other school leaders in the use of technology (including education about the harms of copyright

- piracy), so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and academic subjects in which the teachers teach;
- xi. as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement, with the findings of the evaluations used to improve the quality of professional development;
 - xii. are designed to give teachers of children with disabilities or children with developmental delays, and other teachers and instructional staff, the knowledge and skills to provide instruction and academic support services to those children, including positive behavioral interventions and supports, multitier systems of supports, and use of accommodations;
 - xiii. include instruction in the use of data and assessments to inform and instruct classroom practice;
 - xiv. include instruction in ways that teachers, principals and other school leaders, specialized instructional support personnel, and school administrators may work more effectively with parents and families;
 - xv. involve the forming of partnerships with institutions of higher education, including, as applicable, Tribal Colleges and Universities as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)), to establish school-based teacher and principal and other school leader training programs that provide prospective teachers, novice teachers, and principals and other school leaders with an opportunity to work under the guidance of experienced teachers, principals and other school leaders, and faculty of such institutions;
 - xvi. create programs to enable paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under part A of Title I) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers;
 - xvii. provide follow-up training to teachers who have participated in activities described in this definition that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom; and
 - xviii. where practicable, provide jointly for school staff and other early childhood education program providers, to address the transition to elementary school, including issues related to school readiness.

School Leader

A principal, assistant principal, or other individual who is—

- A. an employee or officer of an elementary school or secondary school, local educational agency, or other entity operating an elementary school or secondary school; and
- B. responsible for the daily instructional leadership and managerial operations in the elementary school or secondary school building.

Universal Design for Learning

A scientifically valid framework for guiding educational practice that—

- A. provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills and in the ways students are engaged; and
- B. reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are limited English proficient.

Appendix B. Helpful ESSA Resources

[U.S. Department of Education ESSA Website](#)

[U.S. Department of Education FAQ on Transition to ESSA](#) (PDF)

[U.S. Department of Education FAQ on Negotiated Rulemaking](#) (PDF)

[U.S. Department of Education Office of English Language Acquisition \(OELA\) Website](#)

[National Clearinghouse for English Language Acquisition \(NCELA\) Website](#)

[U.S. Department of Education and Department of Justice Dear Colleague Letter on Obligations to English Learners](#) (PDF)

[U.S. Department of Education English Learner Toolkit for States and LEAs](#) (PDF)

[U.S. Department of Education Newcomer Toolkit](#) (PDF)

[U.S. Department of Education Resource Guide: Supporting Undocumented Youth](#) (PDF)

[Education Commission of the States: Quick Guides on Top Issues](#) (PDF)

[Education Week Overview of the Every Student Succeeds Act](#)

[National PTA Resources for Families on the Every Student Succeeds Act](#)

[Council of Chief State School Officers ESSA Resource Page](#)

Learn. Share. Shape the Future.

Attend the 2017 TESOL Advocacy & Policy Summit

18-20 June 2017 | Alexandria, VA

www.tesol.org/advocacysummit

Follow Us:    @TESOL_Assn



tesol
international
association

1925 Ballenger Avenue
Suite 550
Alexandria, VA 22314 USA
+1 703.836.0774
advocacy@tesol.org

About TESOL International Association

Founded in 1966, TESOL International Association is a professional community of educators, researchers, administrators, and students committed to advancing excellence in English language teaching for speakers of other languages worldwide. With more than 12,500 members representing more than 150 countries, TESOL fosters the exchange of ideas, research, and peer-to-peer knowledge, and provides expertise, resources, and a powerful voice on issues affecting the profession. Through professional development programs, its international conference, special interest groups, and publications, TESOL engages tens of thousands of professionals to collaborate globally and create a world of opportunity for millions of people of all ages who want to learn English. For more information, please visit www.tesol.org.

© 2016 by TESOL International Association. All rights reserved.