

Title III Policy: State of the States

ESEA Evaluation Brief: The English Language Acquisition, Language Enhancement, and Academic Achievement Act

May 2010

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Over the past decade, concern over how best to meet the needs of English Learners (ELs)¹ has increased along with the number of these students in U.S. schools. To address this concern, the *Elementary and Secondary Education Act (ESEA)*, as reauthorized by the *No Child Left Behind Act of 2001 (NCLB)*, includes provisions to ensure that ELs have access to core academic content and gain the

English language skills they need to meet state standards and be successful in school. Title I of *ESEA* requires that states test ELs in academic subjects of reading², mathematics, and science; that districts and schools be held accountable for meeting adequate yearly progress (AYP) targets for this subgroup, and that states assess the English language proficiency of all EL students. Title III then specifies

Highlights

- Title III, in conjunction with Title I subgroup accountability, has focused much-needed attention on the performance of English Learners (ELs) and generated considerable activity at the state level to comply with new standards-based provisions. By 2006, all states had developed English language proficiency (ELP) standards, ELP assessments, and accountability measures for monitoring progress of EL students, though specific targets were still being finalized in many states. Collaboration among states resulted in 19 states sharing the same ELP standards and assessments and another 8 states sharing a different ELP assessment. Such collaboration could inform current efforts to generate common standards in core academic subjects.
- According to all six state Title III directors and all nine district Title III coordinators interviewed in spring 2009, the current dual focus on academic content performance and English language proficiency for EL students has created opportunities and challenges for serving this population and has brought into sharper focus the need to coordinate Title I and Title III services.
- Unlike other subgroups under *ESEA* accountability provisions, English learners are defined primarily by their targeted outcome—English language proficiency. The developmental nature of language acquisition and the criteria used for identifying and exiting members of the EL subgroup create challenges for accountability because the subgroup's composition is in a state of continuous flux caused by newly arriving and exiting students.

requirements regarding the English language proficiency standards, assessments, and accountability measures for districts receiving Title III funds.

This brief focuses on state implementation of Title III, describing the title's main provisions, summarizing state actions to date to implement those provisions, and outlining key benefits and challenges that have emerged.³

English learners: a growing and challenged population

Any discussion of federal policy and EL students must take into account both the growing size of the national EL population and its diversity. In the 2007–08 school year, the K–12 EL population in the 50 states and the District of Columbia totaled approximately 4.7 million, or close to 10 percent of the K–12 enrollment in public schools nationwide.⁴ This is an increase of

about 150 percent over 1989–90 (National Clearinghouse for English Language Acquisition, 2008a).⁵ Of these 4.7 million ELs, 4.4 million (94 percent) were enrolled in districts receiving Title III funds.⁶

ESEA mandates that all students meet state standards, that classrooms in core subjects be staffed with highly qualified teachers, and that parents be notified of their children's progress, to the extent practicable in a language that the parent can understand. Fulfilling these requirements for ELs presents unique challenges in curriculum and assessment design, professional development, human and financial resource allocation, teacher certification, and communication between the school and family members. These challenges are magnified by the sheer numbers of ELs to be served.

Several aspects of the size, distribution, and challenges of the EL population in the nation's schools are important to note, as they provide

Methodology and Data Sources

This brief focuses on the question: How have states implemented the core provisions of Title III of the *No Child Left Behind Act of 2001*? Much of the information for this evaluation brief builds on data collected as part of the National Longitudinal Study of *No Child Left Behind* (NLS-NCLB) and the Study of State Implementation of *No Child Left Behind* (SSI-NCLB) and reported in Chapter V of *State and Local Implementation of the No Child Left Behind Act, Volume IX—Accountability Under NCLB: Final Report* (U.S. Department of Education, 2010).⁷ That NCLB accountability report drew on data from the National Longitudinal Study of *No Child Left Behind* (NLS-NCLB) and the Study of State Implementation of *No Child Left Behind* (SSI-NCLB). Data sources included telephone interviews with state education officials; analysis of extant data from all 50 states, and the District of Columbia; and nationally representative surveys of districts, schools, and teachers. State interviews for the SSI-NCLB were conducted between September 2004 and February 2005 (Wave I) and between September 2006 and February 2007 (Wave II) with state officials who had primary responsibility for Title III implementation. The interview protocols for both waves of data collection addressed topics including standards, assessments, accountability for English Learners. The SSI-NCLB collected such documents as the annual state Consolidated State Performance Reports (CSPRs). *Unless indicated otherwise, all references to patterns across the 50 states and the District of Columbia are drawn from the data and analyses presented in U.S. Department of Education, 2010.*

To address emergent issues, study team members also collected new data for this brief from a sample of state informants and extended prior analyses of extant sources. Additional informational telephone interviews with six state Title III directors in spring 2009 were conducted to update information obtained in the SSI-NCLB interviews that were conducted in the 2006–07 school year. These interviews focused particularly on the state's implementation of Title III standards, assessments, and accountability measures. The sampled states—Arkansas, California, Indiana, Montana, New York, and North Carolina—were chosen to capture variation in regional location, the nature and diversity of the EL population, and major EL policies. The study team also interviewed nine district Title III officials from five of the selected states. Due to the small sample size, the experiences and perceptions of the state and district officials with whom study team members spoke cannot be generalized across the nation. However, because of the range of contextual issues and EL populations represented in these jurisdictions and the consistency across them on some questions, the findings from these interviews can offer insight into how a diverse group of states and districts have experienced Title III implementation thus far. Finally, the team also interviewed or received written input from a small number (six) of researchers and university-based experts in the field of EL education to gain additional perspectives on relevant progress and challenges in Title III design and implementation.

the context for state implementation of Title III provisions.⁸

- ◆ **Public schools in every state enroll ELs**, although the numbers and percentages vary across states. In 2007–08, the numbers of ELs enrolled in each state ranged from over 1.5 million students in California (24 percent of the state’s total K–12 enrollment) to less than 2,000 students in West Virginia and Vermont (where ELs represented approximately 1 and 2 percent of the total state enrollment, respectively). Exhibit 1 depicts this variation in enrollment across the fifty states.
- ◆ **Some states and localities with previously small populations of ELs have experienced very high growth rates in recent years.** As a result, the proportional growth in this target group has shifted from states like California, Florida, and Texas that traditionally have had larger

EL groups—and thus more experience in meeting their needs—to states in the Southeast, Midwest, and interior West where these issues are relatively more recent (Cosentino de Cohen, Deterding, and Clewell, 2005).

- ◆ **Many states face the additional challenge of burgeoning numbers of ELs at the secondary school level (Capps et al., 2005).** During the 1990s, the secondary school EL population grew by 64 percent, compared with 46 percent growth at the elementary school level. Data from the Schools and Staffing Survey (1993–94) from the Department of Education’s National Center for Education Statistics (NCES) indicated that ELs at the secondary school level have been less likely than are elementary school ELs to receive English as a Second Language (ESL) instruction or bilingual instruction (Ruiz-de-Velasco, Fix, and Clewell, 2000).

Exhibit 1: Number of ELs Enrolled in K–12, 2007–08 School Year

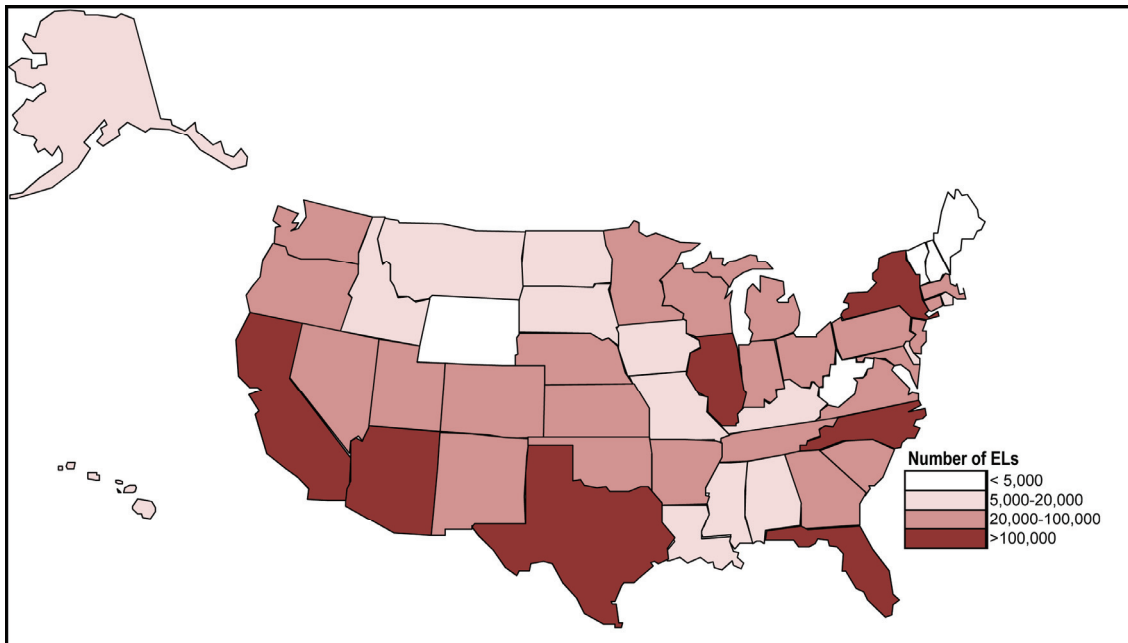


Exhibit Reads: The darkest-colored states reported that over 100,000 students enrolled in K–12 were identified as EL in the 2007–08 school year.

Source: Consolidated State Performance Reports, 2007–08 (n = 50 states and the District of Columbia).

- ◆ **The linguistic composition of the EL population—both in the diversity of languages spoken and the degree of linguistic isolation of the students—varies greatly** across the states, across districts within states, and across schools within many districts. While the majority of ELs speak Spanish (90 percent), over 400 languages are spoken among students in American public schools (National Clearinghouse for English Language Acquisition, 2002). In many California districts, for example, a typical school will enroll EL students with more than six home languages other than English,⁹ a situation that increases the complexity of communication with both students and parents. Communication difficulties can be particularly pronounced if students come from linguistically isolated households (i.e., if no one in the household aged 14 or over speaks English very well) or communities. Nationally in 2000, six out of seven ELs in grades 1–5 lived in linguistically isolated households; in secondary schools, two out of three ELs did so (Capps, et al., 2005).
- ◆ **The majority of ELs in U.S. schools face not only the challenges of learning a new language, but also those that derive from poverty.** In 2000, 68 percent of ELs in pre-K through grade 5 and 60 percent of ELs in grades 6–12 came from low-income families¹⁰ (Capps et al., 2005). These rates were nearly twice as high as the rates for English proficient children in comparable grades (Capps et al., 2005).

What are the major provisions of Title III?

The 2001 reauthorization of *ESEA* (the *No Child Left Behind Act*) was not the first attempt to address the needs of ELs through federal legislation. In 1968, 3 years after its initial

passage, *ESEA* was amended to include Title VII, the Bilingual Education Act, which drew national attention to the unique educational challenges of non-English speaking students and recognized bilingual education as a viable instructional method for economically disadvantaged language-minority¹¹ students. Title VII underwent several amendments through the 1970s, 80s, and 90s, expanding funding within the competitive grant structure by increasing emphasis on professional development for teachers and by moving toward a focus on the acquisition of English and away from bilingual education (National Clearinghouse for English Language Acquisition, 2008b).

When *ESEA* was reauthorized as *NCLB* in 2001, it replaced the Title VII competitive grants with the Title III formula grants to states¹² and added provisions focused on “promoting English acquisition and helping English Learners meet challenging content standards” (National Clearinghouse for English Language Acquisition, 2008b). States receive Title III allocations and then subgrant these funds to districts, the primary unit of focus for this program. Where districts and their EL populations are too small to receive their own subgrants,¹³ states may allow several districts to join together into consortia to pool resources to serve ELs living in those districts.¹⁴

Explicit accountability for outcomes of ELs is a new requirement of *ESEA* and is incorporated in both Titles I and III of *NCLB*. Exhibit 2 summarizes the parallel provisions across these titles.

- ◆ Title I requires that states develop and implement academic standards, aligned assessments, and AYP targets in reading/language arts and mathematics.¹⁵ ELs are to be included in these state assessments and in the “all students” category for evaluating school and district attainment of AYP targets.

Exhibit 2. *ESEA* Title I and Title III Provisions

Provision	Title I	Title III
Standards	Reading/language arts, mathematics, and science	English language proficiency (ELP) for ELs
Assessments	Academic assessments and an ELP assessment	ELP assessment (can be same instrument used for Title I)*
Measuring Progress	Adequate Yearly Progress (AYP) (to measure progress of all students toward meeting the state's standards in reading/language arts and mathematics)	Annual Measurable Achievement Objectives (AMAOs) (to measure progress of ELs in Title III districts toward meeting English language proficiency and subject matter standards)

* While the ELP assessment used for Title III may be the same instrument used for Title I purposes, Title III requires that the assessment be aligned with the state's ELP standards. No such explicit requirement exists for Title I, because Title I does not require ELP standards.

Source: State and Local Implementation of the No Child Left Behind Act, Volume IX—Accountability Under NCLB: Final Report (U.S. Department of Education, 2010).

- ◆ In addition, under Title I schools and districts with sufficiently large EL populations¹⁶ are held accountable for ensuring that the EL subgroup meets AYP targets.

Title III provisions parallel Title I provisions, with the goal of ELs attaining both English language proficiency and academic achievement.

To determine whether or not ELs are making sufficient progress in learning English, Title III requires states to establish English language proficiency (ELP) standards and aligned assessments (distinct from state academic content standards and assessments in reading/language arts), and to measure progress toward and attainment of those standards for their EL populations.

- ◆ For Title III, district and state progress is evaluated against annual measurable achievement objectives (AMAOs), and all districts receiving Title III funds are to be held accountable for meeting state-established AMAO targets each year.

How are ELs identified and redesignated?

While states use multiple tools for identifying ELs, placing them in appropriate language instructional programs, and redesignating them as English proficient, state ELP or other English proficiency tests are the primary measure used for these purposes across all states.

To adequately target resources and monitor progress for their EL students, states and districts must first define who is an EL¹⁷ for the purposes of the law. *ESEA* (Section 9101) defines EL to include any individual meeting the following criteria:

- ◆ Is between ages of 3 and 21;
- ◆ Is enrolled or preparing to enroll in elementary or secondary school;

- ◆ Was not born in the United States or whose native language is not English; or
 - Is a Native American, Alaska Native, or native resident of the outlying areas¹⁸ from an environment where language other than English significantly impacts English language proficiency;
 - Is migratory, has a native language that is not English, and comes from an environment where English is not dominant;
- ◆ Has difficulty speaking, reading, writing, or understanding English sufficient to deny the individual the:
 - Ability to meet the proficient level of achievement on state assessments;
 - Ability to successfully achieve in classrooms taught in English with no language supports; and
 - Opportunity to participate fully in American society.

For the 2008–09 school year, 50 states and the District of Columbia used some English language proficiency assessment as a screening tool, and 49 states also used a home language survey (Zehr, 2009). Additional methods used by various states to identify ELs included teacher judgment, state and/or local assessments, education background, parent and/or student interviews, and student grades.

The EL subgroup is unique in that higher-performing students (i.e., those who attain proficiency) systematically move out of the subgroup to be replaced by students with lower levels of proficiency (e.g., new immigrants). This pattern creates complications for subgroup accountability as measured by Title I and Title III.

The study team finds two practical implications of the federal definition of EL for state accountability policies in *ESEA*.

Systematic underestimation of subgroup progress. First, unlike other subgroups in Title I and Title III, ELs are defined largely by a specified learning outcome (i.e., their level of English proficiency), which is developmental and changes as the student acquires the language. Indeed, over time students are expected to move out of the EL subgroup altogether and be reclassified as English proficient. Depending on state or local criteria for redesignation, this reclassification occurs at some point after the students achieve “proficiency” on an ELP assessment.

Considered from the perspective of ensuring a rational approach to the allocation of scarce resources, this reclassification process makes perfect sense. As EL students gain facility in English, their need for language support diminishes, and such services might be more fruitfully targeted to those (less proficient) students most in need of them. From the perspective of subgroup accountability in *ESEA*, however, the dynamic nature of language proficiency and the removal of higher-performing students from the target population have important implications for assessing the success of schools and districts.

Subgroup accountability under *ESEA* (both Title I and Title III) currently is based on increasing the percentage of students in the given group who are meeting performance targets (proficiency in state content tests, proficiency or growth on state ELP tests). This approach to measuring progress assumes a stable definition of subgroup membership (the denominator in the calculation of percentages). Membership in the EL

“By definition [ELs] are not going to be proficient in reading and ELA.”
—EL expert¹⁹

accountability subgroup, however, changes in systematic and predictable ways over time. Higher-performing students are systematically removed from the subgroup when their English language skills reach a certain level, while less proficient students are constantly moving into the group, as newly-arrived ELs enter the system. One district informant for this brief described this as a “revolving door” and noted that the exit of higher-performing students from the EL designation made it difficult to “count [their] successes.” Indeed, subgroup progress is systematically underestimated because the more advanced students are no longer included in the determinations.

Variation across states. A second observation about the broad definition of EL outlined in *ESEA* is that it allows states flexibility in determining which students compose the EL subgroup. The methods that states and even districts employ to determine proficiency (e.g., survey, assessment, interview, etc.) and the targets or cutoff scores used within each method vary considerably. For example, a 2006–07 review of state EL identification policies revealed that although most states (46 states and the District of Columbia) used a home language survey followed by an ELP assessment to initially identify ELs, 15 states and the District of Columbia added additional criteria, such as performance on the state reading/language arts assessment or teacher evaluation and recommendation. Moreover, some states used different assessments for identifying ELs than for measuring progress or exiting them from services. And in 15 states, the district had discretion in establishing criteria for identifying and exiting ELs based on broad guidelines established by the state (Wolf et al., 2008).

This national variation in EL definitions was reflected in the six states interviewed for this brief. Five of the six Title III directors interviewed in spring 2009 reported that their state relied on the attainment of a specified score or

proficiency level on the state ELP assessment to exit students from the EL subgroup. Two states had additional criteria, including teacher evaluation and recommendation, parental consultation, and student grades. Montana left both identification and redesignation determinations of ELs to districts, guided by state-developed criteria. New York’s more extensive identification process involves a home language survey, an informal reading and writing assessment, a student and parent interview, and a score on an ELP assessment, while the state uses only a single criterion—the ELP proficiency score—for reclassifying students as English proficient. New York is currently reviewing whether this single exit criterion is sufficient. Arkansas uses an ELP assessment score and parental interview for identification purposes and a very comprehensive process for redesignation, including ELP assessment data, student grades, teacher recommendations, and a proficient score on academic content tests in literacy and math.

Such variation in both identification and exit criteria means that membership in the designated EL population may not be comparable from state to state or even district to district within a state. Comparisons of achievement or other trends for this population across states should thus be made with caution.²⁰

How have states implemented English Language Proficiency standards?

All states had implemented ELP standards by the 2006–07 school year, with the majority implementing their current standards after the 2003–04 school year.

States’ ELP standards differ from reading/language arts standards in both their purpose and their content. Designed to guide the development of English proficiency for

students from a different primary language background, ELP standards must define competence in speaking, listening, reading, and writing in English²¹ and must set clear levels of progress (English proficiency levels) that reflect the differences in each student's grade level and English language abilities. Proficiency levels must include a descriptor (e.g., novice or intermediate), and an assessment cut score must correspond to each level.

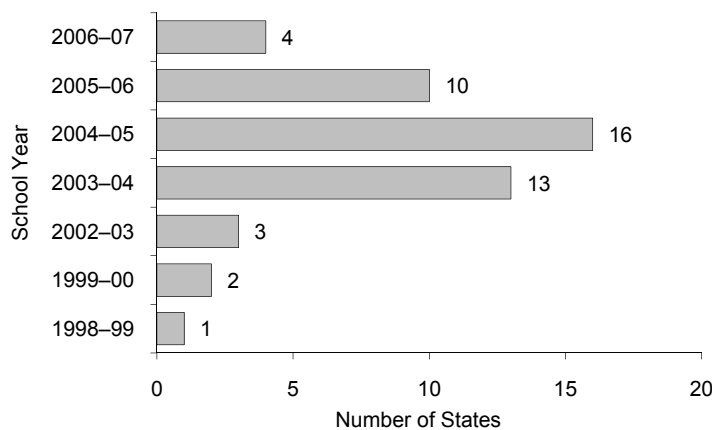
Title III requires that the ELP standards be aligned with the state content and academic achievement standards to ensure that ELs are learning the type of academic English necessary to make progress in the content areas of reading, mathematics, and science.

Before Title III, ELP standards were not required and only 14 states had some form of such "standards" in place when the law was passed, according to data collected for the SSI-NCLB study. Moreover, in each of these 14 states, Title III directors reported that the standards were not binding, but instead served merely as guidance or curriculum aids.

Title III required states to establish ELP standards and implement aligned assessments before or during the 2002–03 school year. Despite having reading and mathematics standards in place well before *NCLB* passage, few states had any prior experience setting standards in the area of English language proficiency. Recognizing the need for flexibility, the U.S. Department of Education extended the deadline to the spring of the 2005–06 school year.²² By 2004–05, after a slow start, 41 states had implemented ELP standards; and by 2006–07, all states and the District of Columbia, had implemented ELP standards (see Exhibit 3).

Three states implemented their current ELP standards during the 1998–99 and 1999–2000 school years; three states, during 2002–03; 13 states, during 2003–04, and the majority (29 states and the District of Columbia), after 2003–04. In 2006, 40 state Title III directors indicated that after their ELP standards were put in place, changes to the standards might include small revisions to ensure alignment with other content and academic standards and newly developed ELP assessment at times of larger

Exhibit 3: Number of States by School Year in Which Current ELP Standards Were Implemented



Note: Two states did not provide data on the date when current standards were first implemented. "Current" standards are those in place during the 2006–07 school year.

Source: *State and Local Implementation of the No Child Left Behind Act, Volume IX—Accountability Under NCLB: Final Report* (U.S. Department of Education, 2010).

periodic revisions to all of the state standards (generally every 5–7 years).

In total, 38 states were involved with four multistate Enhanced Assessment Grant consortia, either to develop ELP standards and assessments or just to develop their assessments. By the 2008–09 school year, 19 states were using the same set of common ELP standards and assessments,²³ while 8 additional states shared a different ELP assessment.²⁴

Enhanced Assessment Grant consortia provided support to some states in the development of ELP standards. In March 2003, the U.S. Department of Education awarded Enhanced Assessment Grants under Sections 6111 and 6112 of *ESEA*. The purpose of these grants was to help states improve the quality of state assessments, with award preference going to states targeting assessments for ELs and students with disabilities. Four of the recipients were multistate consortia that included 38 states as of 2004–05:

- ◆ World-Class Instructional Design and Assessment (WIDA) Consortium;
- ◆ State Collaborative on Assessment and Student Standards (SCASS) Limited English Proficient (LEP) (LEP-SCASS) consortium;
- ◆ English Proficiency for All Students (EPAS) consortium; and
- ◆ Mountain West Assessment Consortium (MWAC).

In addition to providing support to states in developing their ELP assessments, some of the consortia assisted states in developing their ELP standards. For example, states participating in the WIDA Consortium actively used the consortium to develop ELP standards and the ELP assessment. The LEP-SCASS and MWAC consortia

also provided some support to develop standards. The EPAS consortium concentrated on developing state assessments.

In 2004–05, 38 state Title III directors indicated that they were participating in one of the four consortia to develop ELP standards or assessments. By 2006–07, 20 states and the District of Columbia had developed ELP standards with the support of a consortium. These states reported that they either had used a consortium as a resource, or adopted a consortium’s ELP standards, or had adapted a consortium’s ELP standards for their own needs. Thirty states indicated that they had not used support from a consortium to develop their ELP standards.

Perhaps more important than initial participation in the consortia is the large number of states that have implemented consortia-developed standards or assessments. As of 2008–09, 19 states are using a common set of ELP standards developed through the WIDA Consortium. Given the recent efforts led by the National Governors Association and the Council of Chief State School Officers to create common academic standards for K–12 students in reading/language arts and mathematics, the collaboration of states to produce and implement common ELP standards may be informative.

“The fact that consortia have been developed to begin both studying ways to assess proficiency and to do this across states is a very good thing.”
—EL expert

How have states implemented the assessment provisions for ELs?

All states and the District of Columbia had implemented ELP assessments by 2007–08 (with 45 states and the District of Columbia implementing their assessments during or after 2004–05), and almost half of the states developed their ELP assessments in collaboration with a multistate consortium.

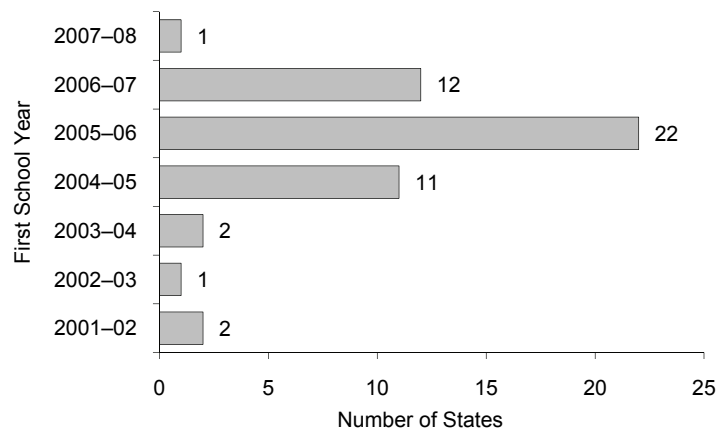
Title III requires states to assess ELs in English language proficiency in the four domains of reading, listening, speaking, and writing.²⁵ As in the case of ELP standards, Title III initially required states to have their ELP assessment(s) in place during the 2002–03 school year. This deadline proved unrealistic, however. While many states used some type of English proficiency test prior to Title III, these tests were generally designed for placement purposes rather than to measure progress in acquiring language proficiency. Therefore, nearly all states had to develop and implement new tests to meet Title III requirements. Recognizing that assessment development and validation takes time, the U.S. Department of Education

extended the deadline for ELP assessments to spring 2006 (see endnote 24).

By 2007–08, 50 states and the District of Columbia had implemented their ELP assessment(s). Forty-five states and the District of Columbia implemented their assessments during or after 2004–05. Prior to 2004–05, only five states had implemented their ELP assessments (see Exhibit 4).

States had several available means for developing their assessments. They adopted an ELP assessment from an out-of-state source (4 states and the District of Columbia); adapted assessments for their state from an out-of-state source (8 states); developed assessments specifically for or by the state (13 states); or developed their assessments in collaboration with a multistate consortium (23 states). Two states used multiple sources to develop their assessments. In fall 2006–07, state Title III directors considered their ELP assessments to be in place (or in the case of one state, reported that the assessment would be in place the following year). At that time, they anticipated making only small revisions to them or otherwise updating or aligning them when needed.²⁶

Exhibit 4: Number of States by First School Year in Which Current Assessments Were Implemented



Note: “Current” refers to those assessments in place in 2006–2007 or anticipated for the following year.

Source: *State and Local Implementation of the No Child Left Behind Act, Volume IX—Accountability Under NCLB: Final Report* (U.S. Department of Education, 2010).

To ensure that ELP assessments measured ELP standards (in accordance with Section 3113(b)(2) of Title III), some states conducted alignment studies. According to Consolidated State Performance Reports for the 2005–06 school year, 26 states reported that they had conducted an independent study on the alignment of ELP standards and assessments, while 20 states reported that they had not (five did not respond to the question). Across both groups, some 20 states also reported conducting other alignment studies.²⁷

How are ELs assessed in academic content?

By the 2007–08 school year, all but five states had achieved the 95 percent participation of ELs in state assessments in both reading/language arts and mathematics required to meet Adequate Yearly Progress (AYP) targets for participation. All but one state assessed at least 95 percent of ELs in mathematics.

Title I requires states to implement annual assessments in reading and mathematics in grades 3–8 and at least once in grades 10–12, and in science at least once in each of three grade spans: 3–5, 6–9, and 10–12. Title I also requires that 95 percent of students participate in the assessments of reading and mathematics. Title I testing requirements apply to all public elementary and secondary schools and school districts and to each student racial and ethnic subgroup required by statute within those jurisdictions. All ELs must be included in statewide assessments and must be provided with accommodations or alternate assessments, as appropriate.

In September 2006, the U.S. Department of Education amended the regulations governing the Title I program to provide more flexibility on EL testing requirements. Initially, all students

were required to participate in their state’s academic assessment system once they had enrolled in school, but the 2006 amendment to the Title I regulations stated that a recently arrived EL (i.e., an EL who has attended schools in the United States for less than 12 months²⁸) may be exempt from one—and only one—administration of the state’s English reading/language arts assessment (U.S. Department of Education, 2007). A newly arrived student still is required to take the state’s ELP assessment, however, as well as the state’s mathematics and science assessments even though the state may exclude the scores of recently arrived EL students on the state mathematics assessment for one cycle of AYP determinations (U.S. Department of Education, 2007). (The required state science assessments are not part of AYP determinations and were not included in this amendment.)

While states are making progress in implementing assessment requirements for ELs, all six state Title III directors interviewed for this brief raised challenges for assessing ELs for ESEA accountability. One such issue was the difficulty of using standardized tests for a very diverse population—one that can overlap with other subgroups, such as students with disabilities. According to one Title III director, “The grade level and subject area assessments do not necessarily describe well the progress [EL] students have made. Standardized tests are problematic, especially for [EL] children also identified as special education. It is not the fault of students, but the fault of assessments—there isn’t one that is appropriate and the [U.S. Department of Education] has not provided guidelines or recommendations on how to assess [EL] students who are also identified for special education.”

Another Title III director suggested the need for more flexibility when testing ELs, particularly as more content area assessment requirements are added. “Currently, there is some flexibility

regarding the testing of [EL] students on English language arts, but it would be helpful to have this flexibility expanded now that additional content areas are being tested, such as science, etc.”

Despite the obstacles posed by the current measures used in academic accountability for ELs, both Title III directors and EL experts noted that the Title III provisions emphasizing both

“Current AMAOs are messy but what’s good is that states are wrestling with meaningful issues and having to make policy decisions. They have moved the field in the right direction.”

—EL expert

English language acquisition *and* academic excellence have been beneficial. In the words of one director, “We’ve learned the importance of including all students in assessments because [ELs] were excluded [from the academic content area tests] prior to *NCLB* [Title I and Title III]. Now we have data showing how these students are doing, including baseline data and

how students are progressing. The requirements help bring [EL] students to the forefront.”

How does Title III accountability work?

States must report the progress of their ELs in learning English, as defined by the state’s ELP standards and measured by the state’s ELP assessment. Progress is to be reported relative to the state’s AMAOs,²⁹ which include three criteria:

- ◆ Annual increases in the number or percentage of students making **progress in learning English** (AMAO 1)
- ◆ Annual increases in the number or percentage of students **attaining English proficiency** (AMAO 2)
- ◆ Making **adequate yearly progress (AYP)** for limited English proficient children as described in Title I, Section 1111(b)(2)(B), of *ESEA* (AMAO 3)

Through the AMAOs, states hold districts receiving Title III funds accountable for improving the levels of English proficiency and academic performance of their EL students. If a state determines that an applicable district has not met its AMAOs for 2 consecutive years, the district must develop an improvement plan with support from the state. If the district has not met AMAOs for 4 consecutive years, the district then is required to modify its curriculum, program, and method of instruction, or the state must assess whether the district will receive additional funds. Additionally, the district is required to replace educational personnel relevant to not meeting AMAOs. Parents of ELs who are being served by Title III or who are eligible for Title III services must be notified of a district’s AMAO status if a district has missed any AMAO for 1 or more years.

“We’ve learned the importance of including all students in assessments because [ELs] were excluded [from the academic content area tests] prior to *NCLB* [Title I and Title III].”

—State Title III director

How did states develop AMAO targets?

Since the inception of Title III, states have struggled to set valid AMAO targets, in large part because of the challenges they faced in establishing two prerequisite foundations: ELP standards linked to state academic content standards, and valid and reliable ELP assessments designed to measure progress in students' acquisition of English. Prior to Title III most states were using ELP assessments that had been designed to place students into appropriate classes rather than to measure growth in language acquisition, as now required by the law. Indeed, some states had no ELP assessment at all and had to adopt an interim test to assess ELs annually while they worked to develop one that was aligned with Title III requirements. As a result, even though many states had such assessments in place in 2004–05 (19 of the 50 states and the District of Columbia) or were planning to have them in place in 2005–06 (26 states and the District of Columbia), most Title III directors (44 out of 51) indicated in fall 2004 that their AMAOs would change as they received new test data, created new baselines, and accumulated sufficient information to set reasonable expectations for growth.

One state Title III director interviewed for this brief described the difficulty in developing initial AMAOs: "When AMAOs first hit, it was a stab in the dark because nobody had any experience with AMAOs. We didn't know what was reasonable or unreasonable to require of districts, or how high the standard should be set. We didn't know how fast students would move through the various levels of English proficiency in our state, especially given the now somewhat dated and minimal research that had been done on the number of years it took students to reach full proficiency in a second language." Another state Title III director called her state's initial AMAOs "a best effort at the time," given the lack of data.

By the winter of 2006–07, only 12 state directors reported that their states had finalized their AMAO targets. Over half of states and the District of Columbia were in the process of revising their AMAOs at that time, and a full 37 states anticipated amending them at some point in the future.³⁰

In developing and revising their AMAOs, state directors reviewed several years of assessment data to determine how much progress an EL can be expected to make in a year's time. Of the six state Title III directors interviewed in spring 2009, those in California and New York felt that they were among the few states with valid ELP assessments in place when Title III began and, therefore, were in a better position than most other states to set AMAOs. Exhibit 5 summarizes the AMAOs for California in 2007–08, which were based on empirical analyses of performance of students and districts on the California English Language Development Test (CELDT).

Having an ELP assessment in place did not solve all the challenges, however. Guidelines for setting the actual targets were confusing to many states at the beginning. For example, three of the six states interviewed admitted being originally under the mistaken impression that AMAO targets had to be based on the goal of all ELs reaching English proficiency by 2013–14 (just like AYP targets which were being developed for Title I during the same time frame). Data collection and scoring problems with the new ELP assessments also created problems for some states, including Indiana, which had to base AMAO accountability determinations solely on AMAO 3 (AYP) for 2005–06. Finally, changes in a state's ELP assessment may call into question AMAO targets based on a prior assessment. North Carolina is one of the most recent states to change ELP assessments, moving to the WIDA Consortium and administering the Assessing Comprehension and Communication in English

Exhibit 5: Example of AMAO Definitions and Targets, California, 2007–08

AMA0 1: Percentage of ELs Making Annual Progress in Learning English

There are three ways for ELs to meet the annual growth target on the California English Language Development Test (CELDT) depending upon their level on the prior year CELDT. ELs at the Beginning, Early Intermediate, and Intermediate levels are expected to gain one performance level. ELs at the Early Advanced or Advanced level who are not yet English proficient are expected to achieve the English proficient level on the CELDT. ELs at the English proficient level are expected to maintain that level. (See AMA0 2 below for definition of English proficiency.)

$$\text{Percentage meeting AMA0 1} = \frac{\text{Number in cohort meeting annual growth target}}{\text{Number with required prior CELDT scores}}$$

2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
51.0%	51.5%	52.0%	48.7%	50.1%	51.6%	53.1%	54.6%	56.0%	57.5%	59.0%

AMA0 2: Percentage of ELs Attaining English Proficiency on CELDT

AMA0 2 measures the percent of ELs in a defined cohort at a given point in time, who have attained the English proficient level on the CELDT. A student is defined as English proficient on the CELDT if both of the following criteria are met: (1) Overall performance level of Early Advanced or Advanced AND (2) Each domain performance level at the Intermediate level or above.

$$\text{Percentage meeting AMA0 2} = \frac{\text{Number in cohort attaining English proficient level}}{\text{Number of annual CELDT takers in the cohort}}$$

2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
30%	30.7%	31.4%	27.2%	28.9%	30.6%	32.2%	33.9%	35.6%	37.3%	39%

AMA0 3: Percentage of LEAs or Consortia Meeting AYP Requirements for the EL Subgroup

In order to meet AMA0 3, the LEA or consortia must meet the 2008 AYP participation rate and percentage proficient targets in reading/language arts and mathematics for the EL subgroup.

Type of LEA	2008 Targets for the EL Subgroup		
	Participation Rate Reading/Language Arts and Mathematics	Percent Proficient Reading/Language Arts	Percent Proficient Mathematics
Unified districts, county offices of education, high school districts (with grades 2-8 and 9-12)	95.0%	34.0%	34.6%
Elementary districts, charter elementary and middle schools	95.0%	35.2%	37.0%
High school districts, charter high schools (with grades 9-12)	95.0%	33.4%	32.2%
Title III consortia	95.0%	34.0%	34.6%

Source: 2007–08 Title III Accountability Report Information Guide (California Department of Education, 2008).

State-to-State for English Language Learners (ACCESS for ELLs) for the first time in 2008–09. Even though North Carolina officials will be looking at targets used by other states in the WIDA Consortium, they will be waiting for a few years of test data before revising their own AMAO targets again. (See companion evaluation brief *Title III Accountability: Behind the Numbers* for more information on state AMAOs.)

What happens when districts miss their AMAO targets?

In the 2006–07 school year, 30 states were applying accountability actions to districts that had not met their AMAO targets for consecutive years. However, due to delays in the development of ELP standards, assessments, and AMAOs, some states refrained from imposing consequences.

Due to the delay in the implementation of ELP standards, ELP assessments, and AMAOs, as well as the questionable validity of the original AMAOs developed from inappropriate and nonaligned assessments, states struggled to determine the best way to hold Title III districts accountable for the progress of their EL students. In the SSI-NCLB interviews conducted during fall 2006, 19 state Title III directors reported that they were not holding districts accountable for missing AMAO targets.³¹ However, these same directors indicated their intent to implement accountability measures once they had accurate data.

Lack of awareness of the requirements was not the reason states were not implementing accountability provisions. In fall 2006, all state directors were aware of the consequences associated with missing AMAOs. Every year a Title III district misses its AMAO targets, the district must notify parents of Title III students. In addition, if the district misses its AMAOs for 2 consecutive years, the state must require a

district improvement plan and provide technical assistance and professional development. Similarly, state directors indicated that if districts did not meet their AMAOs for 4 consecutive years, the state was to require the district to modify its curriculum, program, and method of instruction, or assess whether the district will receive additional funds and require the replacement of educational personnel relevant to not meeting AMAOs. (See companion brief *Title III Accountability and District Improvement Efforts: A Closer Look* for a discussion of the actions actually underway in sampled districts that had missed their AMAO targets for multiple years.)

To find out whether implementation of accountability actions has changed since 2006–07, the study team interviewed Title III directors in six states. The evidence is inconclusive but suggestive. Three of the six states interviewed for this brief had previously reported (fall 2006) that they were not yet applying any consequences for districts missing AMAOs for 2 or more years; by the time of the 2009 interviews, however, five of the six states had had AMAOs in place long enough to identify districts missing them for at least 2 years. All five of these states reported that they require the following specific actions for districts missing AMAOs for 2 consecutive years:³²

- ◆ Development and submission of an improvement plan (which often has to include results of data analysis and descriptions of how the elements in the plan are keyed to address the areas of weakness as identified by the data); and
- ◆ Parental notification of AMAO status (required every year the district misses AMAOs).

States varied in their responses to questions about requirements or consequences for districts missing AMAOs for 4 or more consecutive years, largely because not all states have districts in this

situation. (In the six-state sample, Arkansas, Montana, and Indiana did not have districts in this category.) North Carolina reported that the requirements or consequences for districts missing AMAOs for 4 consecutive years do not differ from consequences for those missing them for 2 consecutive years. New York and California require districts that miss AMAOs for 4 consecutive years to write a corrective action plan that includes modifications to their curriculum or program of instruction and possible changes in staff.

States varied in their approach to accountability for districts participating in consortia for Title III funding.

States use district consortia in Title III to enhance EL services in districts that would not otherwise be eligible to receive funding. The *Notice of Final Interpretations* that the U.S. Department of Education released in October 2008 allowed states to treat consortia of multiple districts as a single entity or separate entities for the purpose of calculating each of the three AMAOs (U.S. Department of Education, 2008). Of the six state Title III directors interviewed for this brief in spring 2009, four indicated that their state (California, Indiana, New York, and North Carolina) based its consortia AMAO determinations on the performance of the consortia as a whole, thus awarding all districts within a consortium the same AMAO status regardless of their individual status. In contrast, Montana reported that it determines AMAO status for each consortium member independently, while the final state in the sample, Arkansas, does not fund any Title III consortia.

What lessons have emerged from states' implementation of Title III?

Accountability for ensuring student progress in learning English and attaining content area proficiency was a new element in the 2001 reauthorization of *ESEA*, and creating the requisite accountability systems has been a learning experience for most states. Based on prior Title III evaluations and on interviews conducted especially for this brief, the study team identified five key lessons from states' implementation of Title III. Several of these may have implications for the reauthorization of *ESEA* in the near future.

1. Including ELs in the accountability system helps to focus attention on this growing and historically underserved population.

The six state and nine district Title III directors interviewed in spring 2009 noted how Title III had brought attention to performance gaps and had generated interventions to better meet the needs of ELs. All of the respondents indicated that the accountability associated with Title III has heightened awareness around the needs of this population of students, and has resulted in more resources aimed at supporting better instructional services for English Learners. Additionally, respondents indicated that Title III has helped to strengthen the emphasis on ensuring ELs' academic progress in addition to language acquisition. One official noted, "Since *NCLB* [Title III] started, it has made principals

and superintendents pay attention to their [EL]

“If we had better assessments in math and science where language didn’t get in the way of demonstrating what you know and can do, it would be possible to accurately measure attainment in those subject areas. The validity of content tests is a major issue not adequately addressed for [ELs] in the beginner to intermediate range of the language acquisition continuum.”

***—EL expert,
Wisconsin***

students. . . . [EL students] are part of the accountability system [of AYP and AMAOs]. As such, [principals and superintendents] are providing more support and services to this population.”

However, respondents—both Title III administrators and national EL experts—also pointed to several challenges in the approach to EL accountability:

◆ **EL definition:** Influxes of recent immigrants combined with redesignation policies result in a constantly changing EL subgroup, as proficient students are systematically removed and less proficient students enter. Federal guidelines that allow schools and districts to

continue to count students as part of the EL

subgroup for up to 2 years after redesignation does not completely mitigate the systematic underestimation of progress for language minority students under Title III. One recommended change suggested by several respondents would be to count any student who was ever EL as part of the EL subgroup indefinitely for accountability purposes. In this way, measures of progress could better capture school and system success with this dynamic group of students.

◆ **Proficiency goal:** Closely tied to the issue of subgroup definition is the logically unreachable goal of 100 percent of the EL subgroup reaching proficiency in reading and mathematics, whether the target year for that goal is 2014 or sometime much farther in the future. All six of the EL experts as well as six district and three state Title III directors interviewed in spring 2009 pointed out that because the EL subgroup is currently defined in large part by its members’ lack of English proficiency—which is correlated with lower performance on academic tests administered in English—and because the subgroup is constantly being replenished with new immigrants still learning the language, “The expectation that [ELs] will eventually reach 100 percent academic proficiency by a particular year [as in AMAO 3 (AYP)] needs to be revised” (Title III director).

◆ **Double counting AYP:** All of the six state Title III directors interviewed in 2009 expressed concern about including the third AMAO (AYP) for Title III accountability. As one respondent stated, “AMAO 3 is a challenge. Holding districts accountable for the same measure twice is an issue. Districts missing AYP are identified under Title I and Title III, and districts must adhere to two different sets of requirements for missing these targets.” These different requirements include different time lines for parent notification, and additional (and possibly

redundant or conflicting) planning, technical assistance, or consequences, such as programmatic changes or replacement of personnel. Not all respondents agreed that the inclusion of academic content goals in Title III accountability was a problem. As one national expert put it, "From the very beginning of federal involvement with [EL] students in both Congress and the courts, there has been the recognition that the students have dual needs in English proficiency development and in academic development. Title III accountability recognizes this explicitly through the different AMAOs. It is the responsibility of the [federal] administration to affirm and support this dual focus, but it is up to the states and districts to use this duality to make program improvements for the students."

- ◆ **Standardized tests:** Standardized tests may not accurately reflect EL learning if language and content knowledge are conflated—for example, if mathematics test items are language dependent. In addition, several state Title III directors mentioned that standardized assessments (even with accommodations) are not always adequate to measure proficiency in a diverse population, particularly for recent immigrants, students with no formal schooling, and ELs with disabilities.

2. Addressing both language and content learning is a more comprehensive approach to serving ELs but requires coordination between Title I and Title III programs.

While two of the six state respondents reported that coordination between Title I and Title III had increased, two other states noted the limitations of the interaction between the two programs. One state Title III director interviewed as part of the spring 2009 sample lamented the disconnect between Title I and Title III and the relative lack of importance Title

III has when compared to Title I: "In terms of districts seeing consequences of AMAOs, we still have a long ways to go. People don't take it as seriously as AYP. Districts still see a big disconnect between Title I and Title III—they seem to be different funding sources for different populations. Some districts separate funding by population: Title III for [ELs] and Title I is not for [ELs]." As more districts repeatedly miss AMAOs, however, he noted that Title III accountability is becoming more salient.

The presence or absence of coordination between Title I and Title III has implications for saliency, sending signals to teachers, district officials, and even parents about who gets served and which kinds of accountability are important. Poor coordination can create perceptions which speak to the extent to which ELs in non-Title III schools are having their needs adequately met.

Another implication is that since AMAO 3 (AYP) is generally the most challenging for districts to meet, districts and states have to pay particular attention to how the language needs of ELs are being met in core content instruction. All six of the national experts interviewed for this brief emphasized this need. One in particular stressed that putting students in meaningful contexts in core content areas was the best way not only for students to learn the content but also to acquire the language. All experts argued for *more* rather

"There is a silo problem. Title I and Title III are parallel universes, but they are coming together; [ELs] now count in Title I, so no one can say 'those are Title III kids.'"

—EL expert

than less attention to core content for ELs, including in Title III.

3. The use of shared ELP standards across such a large number of states demonstrates that states can agree on common standards and assessments.

This finding may have implications for current efforts to develop common standards across states in core content areas. Of course, the implementation of common ELP standards may have been facilitated by the lack of such standards in most states prior to Title III. By contrast, state standards in content areas have a much longer foundation and deeper implementation in individual states, so negotiation for commonality across states in these domains may be more difficult.

4. Recognizing and responding adequately to the diversity of the EL population is challenging in terms of instructional programming and accountability.

While Spanish is the predominant native language of the EL population, a large number of other languages also are spoken, some of which can be found strongly represented in districts or in specific schools within districts. In addition to language, diversity in the EL population also is found in the areas of education background, immigrant status, and ethnic background. Title III accountability extends only to the district level and therefore may not be able to detect challenges and successes in the development of English language proficiency at the school level.

Monitoring data on EL student outcomes can help alert schools and districts to the effectiveness of their programs for their students as well as for differing groups within the larger EL population. That monitoring isn't required at the school level and only for the population as a whole means that important information for improving educational and language programs

for this diverse population is lost. It also does not allow parents and other stakeholders to see which students are being adequately served and which are not.

5. State respondents noted both the value of additional resources to implement language instructional programs and the woeful inadequacy of funding levels in Title III to meet the need of districts and states.

Though the topic of funding was not specifically broached by any interview question, four of the six state Title III directors interviewed for this brief identified inadequate resources as a particular challenge, in having to spread the money too thin for states with rural populations and in providing support to districts that miss AMAOs as those numbers grow in each state from year to year. One state Title III director illustrated how "small" Title III funds given to her state are in relation to the funds districts receive from other funding sources. She reported that her state only receives a total of \$500,000 for Title III, \$150,000 of which is for state administration and support for the ELP assessment. As a result, \$350,000 is left over for district subgrants. As explained, "Particularly for those districts in a consortium, the Title III money is very diluted." Some consortia receive \$10,000 to support a total of eight member districts. To further illustrate her concern over the amount of money available for Title III, the director contrasted Title III funds with the funds districts may receive from other sources. For example, she reported that in contrast to the \$10,000 some consortia of districts receive for Title III, other districts receive up to \$300,000 **each** in federal grants supporting Indian education. Extant data collected at the national level show that for FY 2008, approximately **\$650 million** went to states through formula state grants, and state Title III grants ranged from **\$500,000** to approximately **\$165 million**.

Title III typically provides a supplement of approximately **\$100 per EL served**. (U.S. Department of Education, 2009).³³

Ultimately, the issues associated with ensuring the academic and linguistic success of the EL

population will continue to be discussed and debated at the federal, state, district, and local levels. This brief serves as a small part of the dialogue to determine how best to meet the needs of this unique and diverse student population.

National Evaluation of Title III Implementation

This brief and its two companion briefs, *Title III Accountability : Behind the Numbers* and *Title III Accountability and District Improvement Efforts: A Closer Look*, were written during the early stage of the *National Evaluation of Title III Implementation*, a U.S. Department of Education study being conducted by the American Institutes for Research. These three briefs are precursors to the collection and analysis of nationally representative data and in-depth case study data of Title III-funded districts to examine state and local implementation of Title III standards, assessments, and accountability systems under that evaluation.

The *National Evaluation of Title III Implementation* will provide more in-depth explorations of some of the issues presented in this brief, including analyses regarding:

- The relationship between student progress in English language proficiency and success in academic content areas;
- Methods used by all states to define and redesignate ELs;
- Accountability actions provided to districts that miss AMAO targets for 2 and/or 4 years;
- The use of district consortia nationwide; and
- Coordination between Title I and Title III as well as Title III state support infrastructure.

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Notes

¹ The term, *English Learner*, refers to a student whose primary language is a language other than English and whose level of English proficiency is insufficient to support academic learning in a regular classroom in which English is the language of instruction. *ESEA* uses the term *limited English proficient* for such students; however, it has since become more common to use *English Learner*. As such, this brief uses *English Learner* to refer to students who require additional instructional supports to fully participate in all-English classrooms until they achieve the requisite level of English proficiency.

² For simplicity, the term “reading/language arts” is used throughout this report to refer to the set of subjects that may be variously known as reading, English, or language arts.

³ This is the first in a series of three evaluation briefs on Title III. The second, *Title III Accountability: Behind the Numbers*, provides the most recent data available on the school-age EL population across the country and information on accountability based on Title III annual measurable achievement objectives. The third brief, *Title III Accountability and District Improvement Efforts: A Closer Look*, explores how districts that have missed their Title III accountability targets are working to improve outcomes for ELs, including both the supports they receive from their states and the improvement strategies and activities they implement locally. Taken together, the three briefs summarize data on Title III implementation to date so as to inform dialogue and decision making in the U.S. Department of Education and among other federal and state officials with a stake in EL policy. The briefs in this series were written for a policy audience but appeal to a range of different stakeholders. Each brief has its own focus and features key contextual information related to that focus. Accordingly, multiple briefs may contain similar information.

⁴ The data on the K–12 EL population in the 50 states and the District of Columbia are derived from the 2007–08 Consolidated Performance Reports submitted by states, and have not been validated by the U.S. Department of Education. This figure does not include Puerto Rico because most of the Puerto Rican student population is made up of native Spanish speakers. In Puerto Rico, Title III primarily targets students with limited Spanish proficiency. Even though Title III in Puerto Rico differs significantly from Title III in the other 50 states and the District of Columbia, the basic *ESEA* requirements for non-native-language-speaking students are the same, so Puerto Rico is included in this report’s discussion of the implementation of the Title III program.

⁵ While this section provides background information about ELs in U.S. schools more generally, the section focuses primarily on ELs served by Title III; that is, ELs enrolled in districts that receive Title III funds.

⁶ The data on the number of EL students enrolled in districts receiving Title III funds and the overall number of EL students in California are derived from the 2007–08 Consolidated State Performance Reports.

⁷ The NLS-NCLB and SSI-NCLB studies were not published reports, but studies used to inform the *State and Local Implementation of the No Child Left Behind Act, Volume IX—Accountability Under NCLB: Final Report* (U.S. Department of Education, 2010).

⁸ Here the study team provides only the broad outline of these patterns. For more detail, see the companion brief *Title III Accountability: Behind the Numbers*.

⁹ Based on publicly available data reports retrieved from <http://www.ed-data.k12.ca.us> on August 25, 2009. The exact count of languages by school is not available as the reports identify only the five most prevalent languages and then subsume the remaining students in the “other” category. A quick review of the data, however, revealed many schools with 2 to 5 percent of the total enrollment categorized as “other.” The study team assumes that this category includes at least several languages because of the comparatively smaller proportions of enrollment with identified predominant languages (the top five in enrollment).

¹⁰ Title I and Title III define the low-income or “economically disadvantaged” subgroup as children with family incomes under 185 percent of the federal poverty line, who are eligible for free and reduced-price school lunches. In 2000, this eligibility threshold equaled about \$31,500 for a family of four (U.S. Department of Health and Human Services, 2005).

¹¹ The National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs defines this as a person or language community that is not from the dominant language group. In the United States, a language-minority child may be bilingual, limited-English proficient, or English monolingual (NCELA, 2008b).

¹² Competitive grants require entities that meet specified criteria to compete for funding. By contrast, formula grants award funds to entities that meet the specified criteria according to a funding formula.

¹³ Section 3114 of Title III prohibits states from providing subgrants to districts that would amount to less than \$10,000; the use of consortia allows the state to serve identified ELs in these jurisdictions.

¹⁴ In the six-state sample, Arkansas does not use district consortia for Title III funding; by contrast, six of Montana’s 12 Title III subgrantees are district consortia.

¹⁵ States also must establish standards and aligned assessments in science, but these are not included in AYP targets.

¹⁶ States may establish a minimum number of students required for determining subgroup accountability.

¹⁷ As noted above, the terminology used in the law is *limited English proficient*. For reasons states earlier, the study team uses EL throughout the brief.

¹⁸ American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

¹⁹ For this brief, the study team interviewed six experts in the field of EL education.

²⁰ The topic of using caution when drawing comparisons across jurisdictions is discussed further in the second brief, *Title III Accountability: Behind the Numbers*.

²¹ Comprehension, as exhibited through reading and listening, must be considered when states develop their English language proficiency standards (U.S. Department of Education, 2003).

²² A July 1, 2005, letter from the associate assistant deputy secretary for the Office of English Language Acquisition extended the deadline for states to fully implement their new integrated systems of ELP standards, aligned assessments, and accountability that Title III requires. The letter states, "The Department has determined that spring 2006 is a reasonable time frame to expect States to fully establish and implement these new systems. Therefore, States are expected to begin full administration of ELP assessments aligned with State ELP standards in grades K–12 by spring 2006" (U.S. Department of Education, 2005).

²³ This number has since increased to 21 states and the District of Columbia. These are states that have adopted the World Class Instructional Design and Assessment (WIDA) Consortium standards and the aligned ACCESS for ELLs assessment. The WIDA Consortium requires that states electing to use the ACCESS for ELLs assessment also adopt the common standards on which the assessment is based.

²⁴ These eight states share the same assessment, the English Language Development Assessment (ELDA), but have their own sets of ELP standards rather than a common set.

²⁵ Comprehension need not be assessed separately but may be reported as a composite of student scores in listening and reading.

²⁶ Since these interviews were conducted, however, several states have adopted the ACCESS for ELLs assessment developed by the WIDA Consortium (see endnote 23).

²⁷ These data are derived from item 1.6.2 in the 2005–06 Consolidated State Performance Report. States

were required only to indicate the presence or absence of an "independent alignment study" or "other alignment study" without providing any details about the study(ies). Therefore, no additional information about these alignment studies can be provided in this brief. It also should be noted that the federal government provided no specific guidance or oversight regarding the nature or quality of these alignment studies.

²⁸ The term does not have to be 12 consecutive months but can be 12 months total.

²⁹ The term *annual measurable achievement objective* refers to performance targets set specifically for ELs served through Title III. This should not be confused with AMOs (annual measurable objectives), which are AYP targets for all students.

³⁰ Source: *State and Local Implementation of the No Child Left Behind Act, Volume IX—Accountability Under NCLB: Final Report* (U.S. Department of Education, 2010).

³¹ Where the EL subgroup was sufficiently large, however, Title I accountability for the EL subgroup still applied during this time.

³² Montana is excluded from this group because it did not make AMAO determinations until 2008–09. Therefore, no districts in Montana have missed AMAOs for 2 or 4 consecutive years.

³³ These data derive from Chambers, J. G., Lam, I., Mahitivanichcha, K., Esra, P., & Shambaugh, L. (2009). *State and Local Implementation of the No Child Left Behind Act: Targeting and Uses of Federal Education Funds*. Washington, DC: U.S. Department of Education, Office of Planning, Evaluation and Policy Development. Retrieved June 30, 2009, from <http://www.ed.gov/rschstat/eval/disadv/nclb-targeting/nclb-targeting.pdf>. The report states, "Title III distributed \$681 million in 2004–05 to 41 percent of the districts enrolling 87 percent of the nation's LEP students" (p. xix) and that "Title III funding per LEP student was \$108 and \$106 in the highest and lowest-poverty districts, respectively" (p.22).

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