

NH EL Advisory Discussion Guide 7.12.16

Notes and Comments:

Comments and Revisions for NH ESOL State Guidance on Programs for English Learners
(Title III feedback responses to 5.18.16)

Objectives: to improve the NH State Guidance around Identifying ELs and implementing screening procedures, and to clarify and revise the monitor and exit procedures.

NHDOE EL definition and interpretation (currently)

Definition of Proficiency - In order to reach proficiency on the ACCESS for ELLs™, a student must attain no less than a 5.0 composite score and no less than a 4.0 on each domain score (Speaking, Listening, Reading and Writing).

The NH DOE determines that an English Learner (EL) is proficient in the English language when the EL has completed the process below, achieving proficiency scores on ACCESS 2.0 (currently set at 5.0 or higher Composite and 4.0 or higher in each language domain) and completing two years of monitor status without direct English language instruction (tutoring and indirect services permitted), therefore demonstrating academic performance in English equivalent to peers. After this time, the student will no longer be classified as being an EL.

Codes (used for clarification purposes not currently using these categories of EL)

EL—active (eligible and receiving direct services and ELP assessment)

EL—non-active (eligible however not receiving services due to opt-out or no teacher available, ELP assessment still required)

EL—monitor year 1 (not eligible for direct service hours, only indirect support services allowed, and no ELP assessment)

EL—monitor year 2 (not eligible for direct service hours, only indirect support services allowed, and no ELP assessment)

EL—advanced (not eligible, no ELP assessment, no longer tracked, monitored, or counted as EL in State database)

Graphic to help clarify the progression of an English Learner (work-in-progress)

[What further information should we include?](#)

Statement of Purpose--HLS and federal requirement (work-in-progress)

To address a couple of the comments/revisions of our Home Language Survey

Should we place a civil rights link and summary on the survey?

Draft Statement

All public schools have the responsibility to ensure equal access to education, and the data captured on a Home Language Survey is essential for proving compliance with the federal government's laws and regulations.

See **Memorandum September 27, 1991**, from the Office of Civil Rights

Policy Update on Schools' Obligations Toward National Origin Minority Students With Limited-English Proficiency

<https://www2.ed.gov/about/offices/list/ocr/docs/lau1991.html> .

Therefore, each public school receiving federal assistance has the burden of proof, which is consistent through the ESEA, NCLB and ESSA, to demonstrate there are practices and procedures for ensuring every student has the opportunity to an equitable education. In essence, it is the implementation of **Title VI of the Civil Rights Act of 1964**.

In NH, schools fall into districts/SAUs which need to be recognized by the SEA, in **NH Education Law Chapter 194:1**, and SAUs need to adhere to School Performance and Accountability, which is found in **New Hampshire Education Law Chapter 193-H** (NH Education Laws 2014-15).

This needs revising

The purpose of the Home Language Survey is to identify whether a student has linguistic and cultural norms other than English.

English is the language used "exclusively" for instruction in NH (**NH RSA 189:19**); therefore, it is imperative that schools identify all students who have English as a second or other language. Linguistic barriers need to be investigated immediately, for a failure to do so would violate the student's right to access educational opportunities.

Failure to implement a policy to identify linguistic barriers is delinquency and opens the school to possible civil litigation and/or loss of federal funding.

Our EL Advisory should carefully consider the length of this statement if it is to be placed on the HLS.

Q: Would it be okay to word it: A Message about Language Rights?

Notes and comments:

Elementary and Secondary Education Act of 1965, As Amended by the Every Student Succeeds Act—Accountability and State Plans Federal Register / Vol. 81, No. 104 / Tuesday, May 31, 2016 / Proposed Rules Pages 1 to 36 (paper) or Executive Summary to Section 200.18 (online)

Proposed Regulations submitted May 31, 2016

Executive Summary

The purpose of the law: “to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.” (p. 3)

The requirement of the law: to modify the State accountability systems and to expand upon the ESEA requirements for State and LEA report cards.

As stated:

[the ESEA] continues to require that report cards be concise, presented in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand, but now also requires that they be developed in consultation with parents and that they be widely accessible to the public.(2)

- Should we propose that our reports be in languages other than English?
- If so, which ones would be *practicable*?
- When and how should we ensure these reports are developed in consultation with parents who represent our ELLs?

Tentatively scheduled to present our advisory team’s work to the Accountability Taskforce in 9/9/16

- Any members wish to co-present?
- Can we create guiding statements which would be useful for other advisory teams and the Commissioner’s Office? (e.g., *The EL advisory team believes a language/communication assistance policy is important to establish.*)

The work which is being completed in our state advisory teams should be accessible to parents and guardians who speak other languages and have limited English proficiency.

Invitation to Comment

The public comment period is open until 8/1/16. Here is the invitation to comment, specifically to the bulleted point (p. 4)

Whether, in setting ambitious long-term goals for English learners to achieve English language proficiency, States would be better able to support English learners if the proposed regulations included a maximum State-determined timeline (e.g. , a timeline consistent with the definition of “long-term” English learners in section 3121(a)(6) of the ESEA, as amended by the ESSA), and if so, what should the maximum timeline be and

Long-term goals and interim measures of progress

what research or data supports that maximum timeline. (§ 200.13)

Brainstorm the above invitation for comment with a partner and write down your opinions.

- Are there any other invitations for comments which we would like to address?

Significant Proposed Regulations *Review and reflect on these proposals with a thinking partner*

Section 200.13 Long-term goals, and measurements of interim progress (p. 8-10)

Proposed Regulations: Proposed § 200.13 would primarily incorporate into regulation the statutory requirements under the ESEA, as amended by the ESSA, for State-designed long-term goals and measurements of interim progress for academic achievement, graduation rates, and progress in achieving English language proficiency. The proposed regulations also would clarify certain provisions to support effective State and local implementation of the statutory requirements.

Goals for Progress in Achieving English Language Proficiency

- What should we take into account when establishing these?
- Time in language instruction, grade level, age, native language proficiency level, limited or interrupted formal education, any others...?

“States’ long-term goals must include both annual progress toward English language proficiency and actual attainment of English language proficiency for all English learners.” (p. 11)

Understanding the growing diversity of English learner populations, the proposal cautions states from setting “the same long-term goals and measurements of interim progress for all English Learners in the State” because they could “fail to account for these differences in the English learner population and would result in goals that are inappropriate for some students” (p.11).

Considerations for English Learner sub-groups

- What are various factors which affect the attainment of academic English proficiency?

Data disaggregation

For these reasons, proposed § 200.13(c) would require each State to establish a uniform procedure for setting long-term goals and measurements of interim progress for English learners that can be applied consistently and equitably to all English learners and schools with such students for accountability purposes, and that consider a student's English language proficiency level, as well as additional research-based student characteristics at a State's discretion (i.e., time in language instruction educational programs, grade level, age, native language proficiency level, and limited or interrupted formal education) in determining the most appropriate timeline and goals for attaining English language proficiency for each English learner, or category of English learner. Though the State's procedure must be consistently applied for all English learners and consider the same student-level characteristics determined by the State, this approach would allow differentiation of goals for an individual English learner, or for categories of English learners that share similar characteristics, based on English language proficiency level, as well as

factors such as grade level and educational background, thereby recognizing the varied needs of the English learner population. (p.12)

See request for clarifying the definition of “long-term” English learner.

- How will this apply when recognizing categories of English learners?

Progress in Achieving English Language Proficiency Indicator (p. 15)

Proposed § 200.14 (b)(4) would:

- Require, for all schools, the Progress in Achieving English Language Proficiency indicator to be based on English learner performance on the English language proficiency assessment required under section 1111(b)(2)(G) in each of grades 3 through 8 and in the grades for which English learners are assessed in high school to meet the requirements of section 1111(b)(2)(B)(v)(I); Show citation box
- Require that the Progress in Achieving English Language Proficiency indicator take into account a student's English language proficiency level and, at a State' discretion, additional student-level characteristics of English learners in the same manner used by the State under proposed § 200.13; use objective and valid measures of student progress such as student growth percentiles (although the indicator may also include a measure of English language proficiency); and align with the State-determined timeline for attaining English language proficiency under proposed § 200.13.

Proposed § 200.14 (b)(4), it's at a State's discretion to include additional **student-level characteristics** and **State-determined timeline**.