

# Which English Learners Count When?

## Understanding State EL Subgroup Definitions in ESSA Reporting

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EL INSIGHT #4

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### 1 One Classification, Many Definitions

Data on the educational achievement of English Learners (ELs) across the United States have never been more plentiful. School accountability systems first developed under the federal *No Child Left Behind Act of 2001* (NCLB) and refined by the *Every Student Succeeds Act of 2015* (ESSA) require states to publicly report annual student performance in such areas as English language arts (ELA) and math standardized test scores and graduation rates. In the data they report, states must break out the results of students with certain characteristics—subgroups including racial/ethnic groups, economically disadvantaged students, students with disabilities, and ELs. These data are intended to be used by policymakers, practitioners, and community members to identify schools that need to do a better job at helping students meet benchmarks.

ESSA required each state to develop a uniform definition of ELs that schools use to identify students for support services and as members of the EL subgroup for accountability. ESSA also established rules that allow states to exclude certain ELs when reporting some student outcomes. While these rules were

established to help policymakers come to fair and accurate conclusions about EL data, these benefits risk being undercut if the nuances of these complex systems are not clearly communicated. State student performance reports and online dashboards do not always clearly explain which ELs are included in each set of data. And differences in how states define an EL—definitions that may be difficult for data users to find—make cross-state comparisons difficult. Additionally, states often fail to make clear how variations within the EL population, such as level of English proficiency and prior schooling, can contribute to significant differences in student outcomes.

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This brief aims to help data users understand variations in the makeup of the EL subgroup on state dashboards and report cards. It also discusses how breaking EL subgroup data out further could provide better information for decision-making.

## 2 Who Is an English Learner?

There are many terms used to describe this population, and each highlights a different aspect of students' personal and educational backgrounds. Even for terms defined in law, there is little consistency in how they are used in practice.<sup>1</sup> Some of the terms that cast a broad net across the student population are:

- ▶ **linguistically and culturally diverse children**, who are from homes where languages other than English are spoken and whose cultural practices may differ from those of their teachers and peers;
- ▶ **immigrant children**, who are foreign born, and **immigrant-background children**, who include the foreign born as well as children of immigrants (and in some usages, later generations); and
- ▶ **minority language speakers**, who use a language other than English at home (in the U.S. context).

Although some organizations and writers use the above terms synonymously with “English Learners,” these terms should be understood to include ELs as well as some students who speak English fluently—for example, children who grow up in bilingual homes. Terms that are more specific to individuals who are less than fluent in English include:

- ▶ **Limited English Proficient**, a term widely used by the federal government—including by the U.S. Department of Education and in education law up through NCLB—and which many people in the EL field consider pejorative;<sup>2</sup>

- ▶ **English Learner**, the term used in ESSA, or **English Language Learner** are considered to have a more positive focus on the student as a learner (rather than focusing on what the student lacks); and
- ▶ **Emerging Bilingual** (or **Emerging Multilingual**), a relatively new term meant to focus attention on the linguistic assets students have as a result of their use of another language at home.<sup>3</sup>

Another term, Dual Language Learner, is used in the early childhood education field for children from homes where a language other than English is spoken. This broader term is used because not all states require children in early childhood programs to be formally designated as ELs using the U.S. Department of Education's official definition. Beyond the individual learner, there are also a number of terms for the types of instruction these students receive, including English as a second (or additional or new) language and English for speakers of other languages.<sup>4</sup>

### A. *Legal Definition of an English Learner*

The *Civil Rights Act of 1964* established the rule that programs that receive federal funding may not discriminate on the basis of race, color, or national origin. Subsequent U.S. Supreme Court cases recognized that students who lack English proficiency cannot meaningfully access the same educational opportunities as their English-speaking peers, and therefore schools have an obligation under civil rights law to help ELs overcome language barriers. The 1978 reauthorization of the *Elementary and Secondary Education Act*—the federal education law that eventually became NCLB and then ESSA—established a formal definition of an EL. It includes two

**BOX 1****Definition of English Learner in the *Every Student Succeeds Act* (ESSA)**

The federal government defines “English Learner” as a person:

- 1 ages 3 through 21;
- 2 enrolled or preparing to enroll in an elementary school or secondary school;
- 3 whose native language is not English or whose use of a language other than English at home has a significant impact on their level of English language proficiency; and
- 4 whose difficulties in speaking, reading, writing, or understanding English may deny them the ability to meet challenging state academic standards, succeed in classrooms where the language of instruction is English, or participate fully in society.

This definition includes foreign-born children as well as children born in the 50 states, the District of Columbia, Puerto Rico, and the outlying areas.

Source: *Elementary and Secondary Education Act of 1965* as amended through the *Every Student Succeeds Act*, Public Law 114-95, 114th Cong., 2d sess. (December 10, 2015): 393.

key criteria: a native language other than English, and a level of English low enough to make it difficult for the student to achieve success in school and in an English-speaking society (see Box 1).<sup>5</sup>

The legal definition of an EL, then, is the foundation for the two-part procedure most U.S. schools use to identify ELs: asking families about home language use and then testing potential ELs for English proficiency. Federal law requires states to align what counts as a “passing” score on such tests with the level of English a student needs to perform at a level comparable to their fluent English-speaking peers in academic subjects. Parents of students who are identified as ELs have the right to opt their children out of EL support services, but—like all ELs—students who were opted out must take an annual English language proficiency (ELP) test until they score proficient, and they are included in the EL subgroup for federal reporting, as discussed in Section 4.<sup>6</sup>

## **B. *Defining ELs in Practice***

Federal guidelines have long required schools to use standardized ELP assessments as part of the process of identifying ELs in need of services and monitoring student progress. ESSA refined this system, requiring states to establish uniform, statewide procedures for entering students into EL status and exiting them when they achieve English proficiency. Most states are members of one of two consortia—WIDA and ELPA21<sup>7</sup>—each of which has developed ELP learning standards and corresponding ELP assessments. Nevertheless, identification policies vary across states, even those in the same consortium, because of differences in key procedures:

- ▶ **Screening for entry.** Each state has its own suggested or mandatory wording for home language questionnaires given to families as they register for the first time in a school

district or charter school. The questionnaires ask about the student’s native or dominant language and what languages adults and children speak in the home. For students who speak a language other than English, the second step in the screening process is an ELP assessment. States generally use a standardized ELP “screeener” (a shorter test than the one used for annual assessment) developed by the consortium to which it belongs. States that are not a member of a consortium have designed their own screeners. Thirteen states have additional criteria that schools may (or must) use as part of the EL identification process; examples include a parent interview or review of academic records.<sup>8</sup>

- ▶ **Standardized tests.** For annual assessment (used to monitor progress and to signal a student is ready to exit EL status), states use a standardized ELP assessment. These tests evaluate students’ abilities in the four language domains of listening, speaking, reading, and writing. Members of a consortium use the applicable test, the WIDA ACCESS for ELLs 2.0 or the ELPA21. Two states use LAS Links, and the remaining six states use state-developed tests.<sup>9</sup>
- ▶ **Cutoff scores.** The seven ELPA21 states generally consider students to have reached English proficiency if they score at least Level 4 (out of 5) on all four language domains. In contrast, WIDA states vary in the ACCESS score students must achieve to be considered English proficient. Some WIDA states set only a minimum total score, while others set both a minimum total score and minimum scores for some or all of the language domains. About half of WIDA states use a total score of 5.0 (out of 6.0) to define proficiency; the others have total scores that range from 4.0 to 4.8.<sup>10</sup>

- ▶ **Additional criteria.** Eleven states use supplemental criteria to decide if a student is ready to exit EL status. Types of criteria include teacher recommendations, teacher-scored language inventories, and scores on additional tests of English literacy. In some states, schools consider these criteria only when students are close to achieving the required ELP score, while in other states, schools use them for all students.<sup>11</sup>

Because of all of these various ways of determining ELP, a student could be identified as an EL in one state and not in another. This means that a student could receive support services in one state, then move to another and not qualify for services. It also means that the definition of ELs is not strictly comparable across states.

### 3 A Refresher on ESSA Reporting

Although it is a wide-ranging law, ESSA’s most visible element is the framework it provides states for setting up their school accountability systems. The framework requires states to develop a system of “annual meaningful differentiation”—that is, a system that allows states to identify schools that are in need of improvement—based on five indicators:

- 1 academic achievement;
- 2 English language proficiency;
- 3 for elementary and middle schools, a measure of academic growth;
- 4 for high schools, the graduation rate; and
- 5 one or more measures of school quality or student success (such as attendance rates).

ESSA explicitly requires states to report each school’s results on the third, fourth, and fifth indicators, but

is silent on whether they must report on the first and second. However, states are required to report each school's progress toward meeting long-term goals on all five indicators, and this is frequently the same thing as reporting the indicator results (see Box 2). Additionally, states must report performance levels on academic achievement tests and the number of students who achieve ELP each year, as will be discussed later in this section.<sup>12</sup>

This section outlines ESSA reporting requirements for three key areas: academic achievement, English language proficiency, and graduation. In this section and the next—which describes differences in who states include in the EL subgroup—the discussion uses Colorado as an example of what reporting looks like in practice.<sup>13</sup>

## A. *Academic Achievement*

The most high-profile outcomes that states report are annual results from academic subject assessments (ELA, math, science, and social studies). Results from ELA and math tests must be reported for grades 3 through 8 and in one grade of high school. Those from science tests must be reported at least once in each of three grade spans—3 through 5, 6 through 9, and 10 through 12. Many states also give

standardized social studies tests, but ESSA does not require reporting on those results.

There are three ways that academic achievement results are used in the accountability system. First, states must report the number and share of students at each performance level (these are often labeled as below basic, basic, proficient, and advanced). This must be reported for ELA, math, and science. Second, states set long-term goals for how much student outcomes in ELA and math should increase over time (for example, by 2025, 80 percent of students should receive a proficient or advanced score in math). State report cards show school, district, and state progress toward meeting these goals.

Third, states must use test outcomes to calculate the academic achievement indicator and the academic progress indicator. The academic achievement indicator is always comprised of ELA and math outcomes, and two states—Connecticut and Oklahoma—use science achievement as well. The academic progress indicator, which is applied to elementary and middle schools, shows how much students grow from year to year in ELA and math; states sometimes include science and social studies outcomes as well.

ESSA requires student performance levels and progress toward long-term goals to be reported on state

### BOX 2

#### Which Data Are Calculated for Accountability and Which Are Just Reported?

ESSA has many requirements for what states must publish on their annual report card or data dashboard. A relatively small number of those are indicators used to identify the lowest-performing schools for school improvement. For example, an academic achievement indicator might be a school's average score for ELA plus its average score for math. That indicator is then added to results from other measures (such as attendance and graduation rates) to come up with the school's total score (sometimes called a summative rating).

In addition to these indicators, states must publish other information not used for rating schools. This includes performance levels (such as the number of students who passed a math test) and progress toward long-term goals (such as whether a school met a goal for improving their performance in math that year).



report cards. Regulations published in 2016 but rescinded by the Trump administration in 2017 had also required states to report calculations for each indicator, but because this requirement was not included in ESSA itself, it is no longer in force. Nevertheless, some states may provide this information voluntarily.<sup>14</sup>

**What does Colorado do?** *The academic achievement section of Chapter 2 of Colorado’s 2018 state report card<sup>15</sup> shows the number and percent of students in each of five performance levels on the ELA, math, and science assessments. Long-term goals and the academic achievement indicator for ELA and math use the same measure (mean scale score), so they are combined under the heading of long-term goals.<sup>16</sup> The academic progress indicator is reported under academic growth as median student growth percentiles in ELA and math.<sup>17</sup> Colorado uses the mean scale score in science as one of two indicators of school quality or student success.<sup>18</sup> The other is chronic absenteeism.*

## B. English Language Proficiency

One of the major shifts from NCLB to ESSA was a push to elevate school accountability for helping ELs learn English. By including ELP measures alongside those for academic achievement and graduation, the law signaled that EL education is a high priority.

For ELP reporting, ESSA requires states to report the number and share of ELs achieving proficiency annually. Some states also report the number at each ELP performance level. The law does not require states to use either of these when identifying underperforming schools through their systems of annual meaningful differentiation. Instead, states calculate an indicator of how much progress toward proficiency EL students make each year based on how much growth is expected within a state-defined time frame. This ELP indicator shows the proportion of students making the expected amount of growth. States do not have to publish this number, but they

must report the progress that schools, districts, and the state overall have made toward long-term goals related to ELP, and these are usually the same.

**What does Colorado do?** *The ELP section of the state report card<sup>19</sup> includes the number and share of students at each of six levels of English proficiency, as measured by the WIDA ACCESS for ELLs, and the number and share of students who score proficient on that assessment. Long-term goals and the ELP indicator are the same measure, which is the number and percent of students who are on track to achieve ELP.<sup>20</sup> In Colorado, being on track is defined as one year to progress from Level 1 to Level 2, two years from Level 2 to Level 3, and three years from Level 3 to Level 4, at which point students are reclassified as fluent English proficient. Colorado also incorporates an additional growth measure in its ELP indicator: the median student growth percentile. This is a measure of a student’s growth relative to students with similar historical performance (this calculation is not in the report card but can be found in the online State Accountability Data Reporter).<sup>21</sup>*

## C. Graduation Rates

Reporting on graduation rates has been standardized since school year 2010–11, when all states began to use a uniform adjusted cohort graduation rate (ACGR).<sup>22</sup> States must use the four-year ACGR for accountability purposes but may also use extended-year ACGRs (the number of students graduating in five or more years).

To determine the four-year rate, entering ninth graders are assigned to a cohort, and the rate is the number of those students who graduate four years later divided by the original number in the cohort. Students are only removed from their cohort if they transfer to a secondary school program offering a standard diploma, move out of the country, or die; all other students who do not graduate in four years are counted as nongraduates. Compared to academic achievement and ELP, how the graduation rate fits

into accountability is much more straightforward; the same ACGR is used to report performance levels and long-term goals and to calculate the indicator.

**What does Colorado do?** *Graduation rates are found in two places on the state report card. Performance is reported in the graduation rates section,<sup>23</sup> and those same rates are later shown relative to long-term goals.<sup>24</sup> Colorado uses a four-year and a seven-year ACGR for accountability.*

## 4 Who Do States Include in the EL Subgroup for School Accountability?

Whenever states report outcomes by student subgroup, it may be taken as a given that the data reported for ELs reflect the state's formal definition of who is and is not an EL—in other words, that there is only one set of criteria in each state to determine a student's EL status for all instructional and accountability purposes. However, as this section will show, the EL subgroup in accountability reporting may include some ELs and not others, based on a variety of factors.

Colorado is again used as an example in this section, and readers may wish to consult the appendix to this brief for a table summarizing which ELs the state includes and excludes in each reporting element. The last column in that table shows the number of ELs in the EL subgroup for each element in 2018, which can vary significantly depending on the factors that define the group. These differences are based on decisions about what would make reporting more fair and accurate, so no value judgment should be made about a particularly large or small group size. Nevertheless, it is important to understand how these factors affect reporting and to think about their ramifications when making judgments about outcomes.

### A. Academic Achievement

The composition of the EL subgroup for reporting academic achievement varies across subjects (ELA and math) and outcome types (performance levels, long-term goals, and indicators). This area of reporting is also where variations in how states define ELP have a potential impact (see Box 3). These variations matter because anything that changes the composition of the subgroup to increase the number of advanced ELs (students who have a higher likelihood of passing ELA, math, and science tests) or decrease the number of beginner ELs (who have a lower likelihood of passing) will increase the subgroup's passing rate on academic assessments.

Echoing similar language in NCLB, ESSA includes two provisions that allow states to adjust which ELs are included when they calculate the academic achievement indicator to more fairly represent the progress of the EL subgroup overall:

- ▶ **The option to include some former ELs.** States may include students in the EL subgroup for up to four years after they have been reclassified as English proficient for the purpose of calculating indicators that use ELA and math scores. This provision was included in ESSA because, by definition, EL students exit the EL subgroup just when they develop sufficient skills to pass mainstream academic assessments in English. By counting a limited number of former ELs in the EL subgroup, schools “get credit” for the ELs that they have helped succeed. ESSA does not explicitly say whether former ELs may be included in calculating indicators for science and social studies, but guidance from the U.S. Department of Education indicates they should not.<sup>25</sup>

Although former ELs may be included when calculating ELA and math indicators for

**BOX 3****How Is ELP Level Related to Academic Achievement Outcomes?**

ESSA requires states to establish a uniform, statewide procedure for identifying ELs, but it does not require all states to use the same procedure. A state's procedure must specify the ELP test cutoff score that signifies English proficiency, to be set at the point where statistical analysis shows ELs are just as likely as non-ELs to pass state ELA and math tests. Below that level, EL student outcomes on academic subject tests are shaped by their ability to read and write English in addition to what the test is intended to measure: knowledge and skills in the academic subject. Even when students in different states take the same ELP test, variation in the states' ELA and math tests means that the level of English proficiency needed to pass them varies across states.

In theory, states have an incentive to set a high cutoff score to define English proficiency. For example, suppose a state had determined that a score of 4.5 (out of 6.0) on an ELP test corresponded to the point where ELs and non-ELs have the same likelihood of passing their state's ELA and math tests. If the state raises the score needed to exit EL status to 5.0, more students would be labeled as ELs but, among them, more would have high enough English skills to pass ELA and math tests. This would likely raise the average passing rate for the state's EL subgroup.

One counterincentive to raising the cutoff score is that school systems are criticized for having large numbers of long-term ELs (typically defined as students identified as ELs for more than five years). Making it harder to pass the ELP test means more students remain ELs for longer. Another counterincentive is that most states provide supplemental funding to districts based on the number of ELs they have, so identifying more ELs would increase educational costs for states.

accountability, states may not include these students' scores when reporting performance levels on academic assessments.<sup>26</sup> This means that, for example, a state might include former ELs in the EL subgroup's mean scale score (the academic achievement indicator) and their mean student growth percentile (the academic progress indicator), but not include former ELs in the count of students at each performance level. To make things more complicated, ESSA only requires states to publish the latter two elements on their report cards, so the public might not be able to see academic achievement outcomes both with and without former ELs.<sup>27</sup>

***What does Colorado do?*** Performance level tables for ELA, math, and science do not include former ELs. However, former ELs are included for

*four years in the calculation of long-term goals in ELA and math (the same calculation used for the academic indicator), the academic growth indicator in ELA and math, and the science component of the school quality or student success indicator.*

► **The option to exempt recently arrived ELs.**

States can choose to test recently arrived ELs in the same way as all other students, or they can choose to exempt them from accountability calculations in one of two ways:

- 1 In their first year enrolled in U.S. schools, recently arrived ELs are not tested in ELA but are tested in math and ELP; their math and ELP scores are reported but excluded from the calculation of accountability indicators.<sup>28</sup>



- 2 ELs take both ELA and math assessments in their first year in U.S. schools, and their performance levels are reported; however, their scores are excluded from the calculation of academic indicators in the first year and are reported as a growth score in the second year.

*manner as all other students. The only exception is recently arrived ELs in grades 9 through 11 who do not take PSAT or SAT math.<sup>29</sup>*

Three relevant ESSA provisions affect all students, including ELs:

- ▶ **Ninety-five percent participation.** ESSA requires states to ensure that at least 95 percent of students participate in ELA and math assessments. If participation is lower than 95 percent, states must count nonparticipants (up to 95 percent of the total) in the denominator of academic achievement indicators. For example, if there are 100 students who should take a test but only 90 do so, to find the average, the summed score of the 90 participants must be divided by 95, rather than 90.

***What does Colorado do?** Colorado follows this procedure. The nonparticipants who must be added to the denominator are assigned a scale score of 650, which is the lowest score a participant could receive.*

- ▶ **Partial-year enrollees.** Students must be excluded from accountability calculations for any school they attended for less than half of a school year.

**What does Colorado do?** It chose Option 1, but applied it with some variations:

**ELA.** Recently arrived ELs who are at the beginner level of ELP (called NEP—Non-English Proficient) are exempt from taking the ELA test in their first year of enrollment in Colorado schools unless their parents ask that they be given the assessment. ELs in grades 3 and 4 who speak Spanish and receive bilingual education may take the Colorado Spanish Language Arts Assessment instead of the ELA test. Intermediate and advanced ELs (called LEP—Limited English Proficient) take the ELA test every year. NEP and LEP students’ scores are reported and used in calculations as outlined in Table 1.

**Math and science.** All ELs take math and science tests in all years and their scores are included in academic achievement and academic progress indicators in the same

**TABLE 1**  
**When Are Colorado Non-English Proficient (NEP) and Limited English Proficient (LEP) Students Included in the EL Subgroup for ELA?**

	ELs Tested in Year 1 (LEP, and NEP Parent Opt-In)			ELs Not Tested in Year 1 (NEP)		
	Year 1	Year 2	Year 3	Year 1	Year 2	Year 3
Performance level reported?	Yes	Yes	Yes	No	Yes	Yes
Included in academic achievement indicator?	No	No	Yes	No	Yes	Yes
Included in academic progress indicator?	No*	Yes	Yes	No*	No	Yes

\* Because there are no prior year scores for students in Year 1, a growth score cannot be calculated.

Source: Colorado Department of Education (CDE), “2018 CMAS and PSAT/SAT ELA Testing Requirements and Accountability Implications for First Year in U.S. English Learners” (fact sheet, CDE, Denver, April 2018).

**What does Colorado do?** Only students who were enrolled in the same school on October 1 and for spring testing are included in accountability calculations.

- ▶ **Alternate assessment reporting.** States may allow students with the most severe cognitive disabilities—up to 1 percent of the tested population—to take an alternate assessment in academic subjects.

**What does Colorado do?** Performance levels on the Colorado Alternative Assessment (CoAlt) are reported separately from results on the Colorado Measures of Academic Success (CMAS) and the SAT. CoAlt and CMAS/SAT results are combined in the calculation of the academic indicator for ELA and math. The state does not calculate student growth percentiles (used for the academic progress indicator) for the CoAlt.<sup>30</sup>

One other variable affects the number of students that may be included in the calculation of indicators but is not a provision of ESSA per se:

- ▶ **Two years of scores are needed to calculate growth.** For measures that use a growth score, only students who have two consecutive years of scores can be included since a growth score describes the relationship between their previous year's score and their current year's score. For example, if a test is given in grades 3 through 8, the first year most students would have a growth score is grade 4. If a student was tested in grade 3, left the state for grade 4, and returned for grades 5 through 8, growth scores can only be calculated for grades 6 through 8. If a student subgroup is particularly mobile, this could affect how its average growth score compares to that of other subgroups.

**What does Colorado do?** The academic growth indicator data in Colorado's state report card reflects growth on the CMAS ELA and math for grades 4 through 8, and for the math and evidence-based reading and writing components of the SAT for grade 11 (growth is measured against performance on the PSAT taken in grade 10). A growth score may be calculated at the district level for a student that moves from one school to another within the district.<sup>31</sup>

## B. English Language Proficiency

All identified ELs must be assessed with a standardized ELP test each year. The resulting information is used to plan instruction as well as to track students' progress and to determine when they may be exited from EL status. Because reporting mechanisms on ELP already target ELs, the composition of the subgroup is more straightforward for ELP than for academic achievement. For example, former ELs are not included because they do not take the ELP test, but recently arrived ELs are included since the ELP test is appropriate for measuring their progress in English. As a result, neither of the provisions related to former and recently arrived ELs (described in the previous subsection) are applicable to ELP reporting.

However, some of the other, more general rules apply. The provisions for partial-year enrollees and for students who take alternate assessments are relevant to ELP reporting in the same way as described in the previous section. And as with academic indicators, only students with two consecutive years of scores can be included in the ELP indicator, which uses a measure of growth from year to year. The rule regarding 95 percent participation is not applied to ELP.

One additional ESSA provision not discussed in the above section may also affect which students a state includes in reporting for ELP:

- ▶ **Grade level.** ESSA says that the ELP indicator should be calculated for grades 3 through 8 and for the year in which high school students take ELA and math tests.<sup>32</sup> However, of the 20 states that indicated in their ESSA plans what grades would count in the ELP indicator, only North Carolina and West Virginia follow this procedure, and Iowa counts students in grades 3 through 12.<sup>33</sup> The other 17 states explicitly include all grades (kindergarten through 12).<sup>34</sup> Many of the states that do not explicitly define which grade levels count for their ELP indicator refer back to their description of their long-term goals (which include K–12) or note that students will be included if they have two consecutive years of test scores (necessary to calculate a growth score). Because these states do not specify a grade span, it seems likely that they include all grades.<sup>35</sup> As noted above, states must also report the number of students achieving ELP each year, but ESSA does not indicate which grade levels should be included.

***What does Colorado do?** Students in all grades (K-12) are included in reporting on the number of students scoring at each ELP level and the number achieving proficiency. Because two years of scores are needed to calculate a growth score for the ELP indicator, students in grades 1–12 are included in the calculation of the ELP indicator.*

### C. Graduation Rates

The composition of the EL subgroup that states use when reporting graduation rates may be the least transparent of all the measures discussed in this

brief. This is largely because the 2016 regulations that explained how states were to interpret this aspect of ESSA accountability measures (among others) were rescinded shortly after the Trump administration took office. Those regulations had said that when calculating the ACGR, states must use a definition of the EL subgroup that includes students identified as ELs at any time during the cohort period (that is, at any time in high school), even if they have exited EL status before graduation.<sup>36</sup> Since that requirement was not in ESSA itself, states are not obligated to follow it.

Instead, states follow the comparable regulations published in 2008 under NCLB. These regulations describe how the ACGR is to be calculated but do not define who should be included in the EL subgroup. In other words, states are free to decide that they will count only students who were ELs in their final year of high school, students who were ELs at any point in high school, or ELs by any other definition, as long as they use it consistently. Further, the 2008 regulations do not stipulate that states have to make their approach publicly transparent.<sup>37</sup>

In order to understand how states define the EL subgroup for graduation under ESSA, the Migration Policy Institute (MPI) reviewed information listed on the department of education websites for all 50 states and the District of Columbia. Only nine states provided an explanation of who was included in the EL subgroup for the graduation rate alongside that data, or made it easy to access such information via a link on the data page. In half of the remaining states, information could be found somewhere on the website, but there was no direct link from where graduation rate data were displayed. The other half had no online information at all. For states whose definition of the subgroup was unclear or unavailable, MPI followed up with state departments of education for clarification.<sup>38</sup>

For graduation rate reporting, most states define the subgroup as including students who were ELs at any time in high school (29 states plus the District of Columbia). An additional ten states include students who were ELs in their last year of enrollment and former ELs in “monitor” status for up to four years. This definition is essentially equivalent to the “any time in high school” definition, since it would include a student who was an EL in ninth grade, exited at the end of that year, and graduated either on time or one year late. Therefore, 39 states plus the District of Columbia use a definition in line with the now-rescinded 2016 regulations.

Looking at the other 11 states, seven include students in the EL subgroup for graduation rate reporting only if they were ELs in their senior year or last year of enrollment (six states include ELs who held

that status at some point in the last year of enrollment, while Maryland counts those who were still ELs on the last day of enrollment). Finally, four states take a middle ground between “any time in high school” and “any time in the last year of enrollment,” as they include students who were ELs in their last year of enrollment and former ELs in monitor status up to two years.

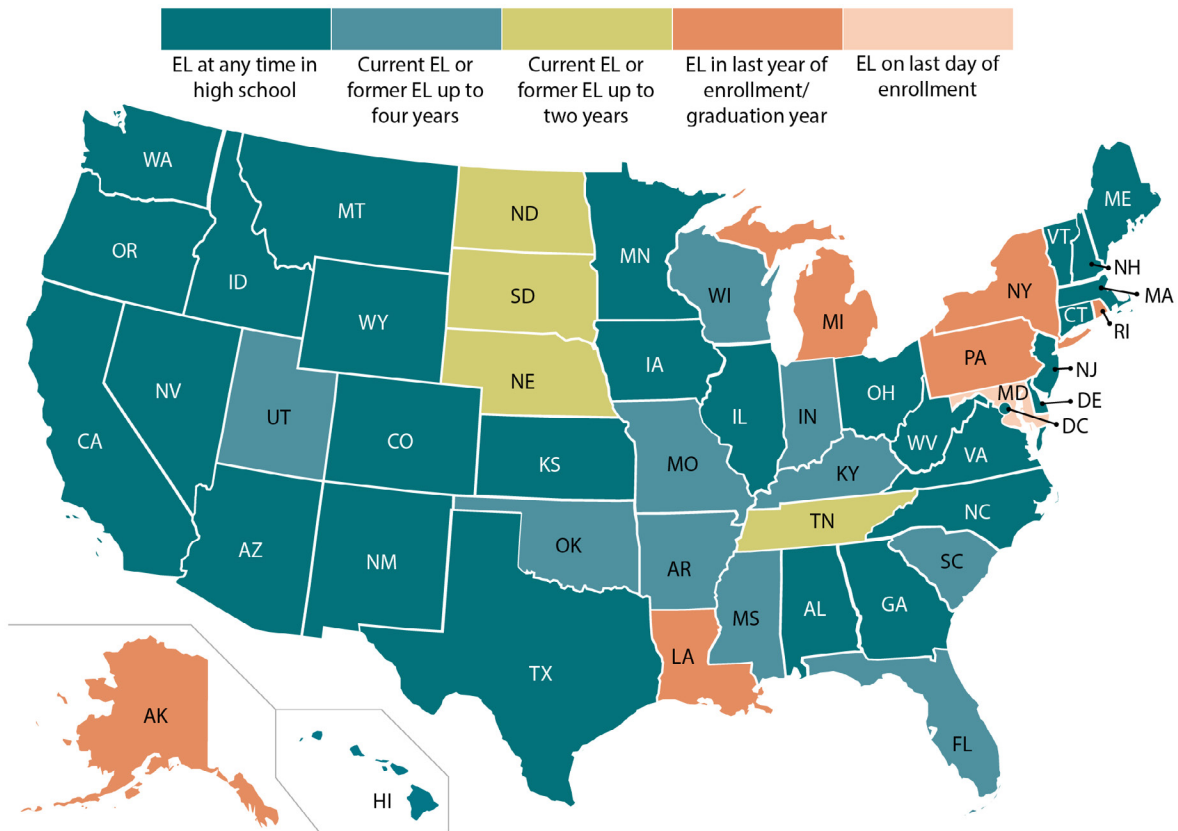
**What does Colorado do?** For the graduation indicator, Colorado includes students who were ELs at any point in high school.

### D. Number of Students Needed for Data Reporting (N-Size)

Finally, although not strictly related to how the EL subgroup is defined, it is worth noting that states

FIGURE 1

**Which Students Do States Include in the EL Subgroup for Federal Graduation Rate Report**



Source: MPI analysis of state education agency websites and personal communication with state education agency administrators.

may not report results for a school or district’s EL subgroup if the number of students in the reporting group (known as the “n-size”) is too small. This is done for two reasons. First, reporting the outcomes of a small number of students could violate their right to privacy, as data users might be able to guess which students the data describe. Second, because the outcomes of a small number of students can be skewed by outliers (students scoring unusually high or low), it is not appropriate to come to conclusions about a cohort of students based on only a few scores.<sup>39</sup> In some cases, a student’s score might be excluded from school-level reporting, but included in district- and state-level reporting if the minimum n-size is met at those levels. Suppression of data due to n-size could affect the comparability of findings across schools.

ESSA allows states to combine data across years or across grades when n-sizes are too low. Additionally, although past federal regulations have forbidden it more generally, some state ESSA plans created “super-subgroups” that combine racial/ethnic or other categories into a larger student group when small n-sizes mean those data would otherwise be left out of accountability calculations. For example, Oregon combines American Indian/Alaska Native, Black/African American, Hispanic/Latino, and Hawaiian/Pacific Islander students into a “combined underserved race/ethnicity” group for accountability purposes when none of these groups individually meets the minimum n-size of 20. Oregon also averages three years of data if any student group or school would have data suppressed due to a low n-size.<sup>40</sup> This allows more students to be included in accountability measures, as their scores would otherwise not count toward school ratings, but data users should be aware of whether these methods are in play and how they might affect interpretations of the data.

## 5 Beyond ESSA Categories

ESSA allows states to adjust the composition of the EL subgroup in order to increase the fairness and accuracy of the overall accountability system. However, the student characteristics discussed above are not the only categories that could be used to describe subpopulations of ELs. In many cases, the failure to disaggregate EL subgroup data by other traits (that is, to report data broken down into smaller student groups) makes it difficult for practitioners and policymakers to understand what student outcomes mean and what they need to do to improve instruction for ELs.

### A. Newcomers

A good example of the importance of disaggregating EL data is looking at the outcomes of students who have recently arrived in the United States separately from those of students who have been in U.S. schools longer. As noted in Box 3, having large numbers of ELs with relatively low levels of English proficiency (as is likely for newcomers) could be one alternative explanation for a school or district’s low academic outcomes, which is more frequently attributed to ineffective teaching. Also, some newcomers, regardless of their ELP levels at enrollment, face challenges such as catching up on academic subject knowledge and adjusting to a new culture. While long-standing education policies—backed by civil rights law—require schools to hold all students to high expectations, educators must also know how to fairly evaluate test scores based on student circumstances and characteristics.

There is no provision in ESSA requiring states to disaggregate EL outcomes by newcomer status. While ESSA allows states to exclude the scores of students in their first year in U.S. schools from accountability



calculations, as described in Section 4.A., research shows that it takes five to seven years for ELs to develop the English proficiency needed to achieve on par with English-proficient students.<sup>41</sup> For that reason, states might want to develop a definition of newcomers that uses a longer time frame and to disaggregate the academic outcomes of these and other ELs to better understand how these students are faring.

To do this, school systems might consider using the federal definition of immigrant children and youth. States collect the numbers of immigrant children and youth in their schools in order to allocate a portion of federal Title III funds to districts that have experienced a significant increase in immigrant student enrollment.<sup>42</sup> Such students—who may or may not be ELs—are defined as individuals ages 3 to 21 who were not born in any U.S. state, the District of Columbia, or Puerto Rico, and who have attended school in the United States for no more than three full academic years.<sup>43</sup>

### ***B. Students with Interrupted Formal Education (SIFE)***

SIFE are newcomers who enter U.S. schools significantly behind their age-level peers in academic skills. At least three states (Minnesota, New York, and Oregon) have a formal definition of SIFE that is used to place such students in appropriate support services. These three states' definitions have the common element that SIFE are immigrant ELs who are at least two years behind in reading/language arts and math due to interrupted or limited education prior to their arrival in the United States. These definitions also indicate that such students may be preliterate in their native language. Oregon applies their definition to students entering U.S. schools in grade 2 or later, and Minnesota to students who enter in grade 6 or later; New York does not specify.<sup>44</sup>

Although no states have indicated that they will disaggregate student outcome data by SIFE status for federal reporting purposes, Minnesota and Oregon allow such students additional time to achieve ELP while still considering them on track.<sup>45</sup>

### ***C. Long-Term ELs***

Students who remain ELs beyond the five to seven years typically needed to be reclassified as English proficient are another EL subpopulation of concern to educators. An influential 2010 report on long-term ELs in California defined such students as having been enrolled in U.S. schools and identified as ELs for more than six years, although there is no consistent definition across states.<sup>46</sup> Many long-term ELs were born in the United States, and they make up a sizable proportion of ELs in grades 6 through 12 in many school districts.<sup>47</sup>

ESSA raised the profile of long-term ELs as a population of interest by adding reporting requirements involving them to Title III. Every two years, districts that receive federal Title III funds are required to report to their state the number and percent of ELs who have not been reclassified within five years of enrollment in the district. States must include a summary of this data in a biannual report to the U.S. Department of Education, but there is no mandate to report this number publicly alongside other data reported for accountability purposes, nor to use this category to report on student outcomes.<sup>48</sup>

### ***D. Vulnerable Populations***

Recent trends in immigration to the United States, such as the influx of unaccompanied minors from Central America, and immigration policy changes, such as increased enforcement under the Trump administration, have raised concerns about particularly vulnerable groups of immigrant-background children in the U.S. school system. These include refu-

gees and asylum seekers, unauthorized immigrants, U.S.-citizen or permanent-resident children living with unauthorized parents or other family members, and unaccompanied minors. While they may not have unique academic needs compared to other ELs with similar educational and linguistic profiles, these students may be facing additional socioemotional stresses.

However, data on the enrollment and performance of these students are difficult or impossible to come by, as schools have not typically collected this information systematically. Schools are prohibited from asking families about their migration background. This rule stems from the 1982 Supreme Court case *Plyler v. Doe*, which requires states to provide a free, public education to all students regardless of immigration status. In more recent guidelines, the U.S. Departments of Education and Justice have stated that the *Plyler* ruling means that schools may not ask families about their immigration status at enrollment.<sup>49</sup> In 2017, California went further by passing a law that forbids schools to collect such information at any time.<sup>50</sup> The aim of such policies is to avoid situations where children in families with unauthorized-immigrant members do not receive an education because of concerns related to immigration enforcement. Even though some groups of immigrants, such as resettled refugees, might not hesitate to disclose their legal immigration status, their doing so would leave those without legal status exposed. For this reason, it is unlikely that states will move toward identifying these categories of immigrant-background students in their data systems.

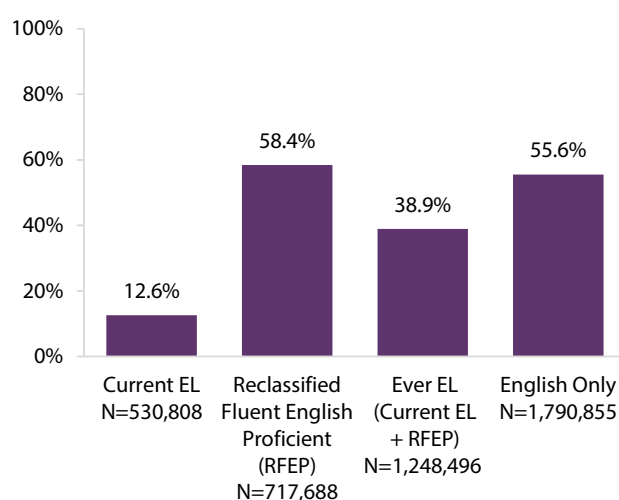
### E. Former English Learners

The EL subgroup is unique in that its membership is constantly changing. Once ELs develop enough English proficiency that their scores on ELA and math tests are comparable to those of their non-EL peers, they exit the EL subgroup. At the same time, newly arrived, low-ELP students join the subgroup.

This leads to what some researchers have called “the gap that can’t go away.”<sup>51</sup> If the success of reclassified former ELs is not taken into account, it will always appear that ELs are underachieving compared to all other subgroups, among whom the likelihood of passing standardized tests is more evenly distributed.

As noted above, some states’ ELA and math indicators include the scores of former ELs for two or four years after their reclassification. However, many state data dashboards fail to indicate clearly when former ELs are included in a set of data, and few make it possible to view data for the EL subgroup both with and without former ELs. One exception is the California Assessment of Student Performance and Progress website, which reports ELA and math results for current and former ELs in a variety of combinations, each of which provides useful information to stakeholders.

**FIGURE 2**  
**What Percent of California Students Met or Exceeded Standards on the 2018 ELA Assessment, by English Fluency?**



ELA = English language arts; N = Number of students with valid scores in tested grades (3 through 8 and 11).

Source: California Department of Education, “Smarter Balanced Assessment Test Results for: State of California—2018 Results by English Language Fluency,” accessed October 7, 2019.

Results for the 2018 ELA test, for example, show that while there is a large achievement gap between current ELs and non-ELs, former ELs perform much better. In fact, about 3 percent more former ELs meet or exceed ELA benchmarks than students who were never ELs.<sup>52</sup> When states offer information about the outcomes of former ELs both separately and together with current ELs, data users are able to find the information that best answers their questions about student achievement.

## 6 Why Does This All Matter?

For data about student outcomes to be useful, all interested parties—from parents to education policymakers—should be able to understand key factors that shape the data.<sup>53</sup> These include the reporting rules discussed in this brief, as well as other things such as what test accommodations are used for students with special needs. ESSA’s reporting rules are intended to improve the fairness and validity of school accountability measures. This, in turn, is a necessary step to realize one of the law’s key objectives: helping schools identify and close achievement gaps experienced by historically underserved groups of students.

Given wide variations in the approaches states take to reporting student outcomes, and the fact that few states describe ESSA reporting rules transparently, decisionmakers may need to dig deep into state websites to learn who is counted as part of the EL subgroup for different purposes, and what this means for data analysis. Having such knowledge, data users can:

- ▶ **Form hypotheses about why a school has certain results.** For example, a school might wonder why its ELA and math growth scores were lower than those of a school

reporting similar academic proficiency levels. Knowing that two consecutive years of data are needed to calculate a growth score, they might hypothesize that their growth scores differ because the second school has a more mobile student population.<sup>54</sup>

- ▶ **Consider the limitations of comparisons across measures or states.** Some of the concepts discussed in this brief apply in the same way across states (such as the 95 percent participation rule for ELA and math), but others vary in how each state implements them (such as the inclusion of former ELs). While such flexibility was a Congressional priority in writing ESSA, it also makes it difficult to compare results across states.<sup>55</sup> Data users can better contextualize each state’s results knowing what slice of the student population was included in each measure.
- ▶ **Evaluate state policy choices.** With access to raw data, state and district staff—or researchers working with them—can investigate whether accountability ratings are working as intended. For example, a state that chose not to exclude the scores of recently arrived ELs from accountability indicators might conduct an analysis to see if schools that serve a larger share of newcomers are systematically disadvantaged in the calculation of the academic achievement indicator compared to schools with fewer newcomers.
- ▶ **Look for additional data on excluded students.** If some groups of students are systematically excluded from accountability measures—often for a good reason—decisionmakers may want to find alternative means by which to track their progress. For example, schools will not report standardized test results for their EL subgroup if they

have only a small number of ELs (a low n-size). Educators and decisionmakers can use alternative methods such as classroom observations and student portfolios to evaluate the effectiveness of EL instruction in such lower-incidence schools.<sup>56</sup>

Although reporting rules make data analysis more fair and accurate, some educators might say that student performance reporting is not disaggregated enough—especially when it comes to ELs—to provide useful information for decision-making. Before any future reauthorization of ESSA, at which time Congress may revise the parameters for student subgroups, states may be limited as to what changes they can make to their accountability systems. When ESSA is reauthorized, there are several steps that could be taken to improve the coherence and transparency of the system as a whole. The law could, for example:

- ▶ **Clarify the composition of the EL subgroup for the adjusted cohort graduation rate.** Policymakers may want to reestablish the guideline from the rescinded 2016 Title I regulations, which stated that the EL subgroup used to calculate the graduation rate should include all students who were ELs at any time in the cohort period (that is, any time in high school).
- ▶ **Expand the grade levels states are required to include in ELP indicator calculations to K–12.** Since ELs at all grade levels already have to take ELP assessments, including all grades in the indicator provides a more complete picture of a school's effectiveness with ELs. Many states already include all grades in their ELP indicator.
- ▶ **Require states to be transparent about including former ELs in ELA and math data.** Specifically, states should publicly specify which, if any, indicators use the scores of

former ELs and whether this is done for two or four years. Congress may also consider requiring states to report former EL outcomes in addition to current EL outcomes regardless of whether they include former ELs when calculating accountability indicators.

- ▶ **Require states to report indicator calculations.** In addition to performance levels, states should be reporting the calculations they use to determine accountability ratings (as Colorado does, for example, in reporting median student growth percentiles in ELA and math).

Regardless of what is required by ESSA, or any future federal education law, states can make the data they collect more useful by providing additional information about ELs. For example, it might be helpful to disaggregate the ELP progress indicator to compare the progress of newcomers and ELs enrolled for a longer period of time, or students at lower and higher ELP levels. This would help schools target those students most in need of help. States may also wish to follow the lead of Minnesota, New York, and Oregon by creating a statewide definition of SIFE and beginning to identify such students in their data systems.

Data reporting and accountability are very complex aspects of the education system and have evolved dramatically over the past 20 years. The complexity of this system reflects the balance policymakers have sought between making sure schools have high expectations for ELs—as for all students—and acknowledging the way these students are different from other subgroups. The flexibility afforded by ESSA allows states to explore different ways to strike this balance, but to be effective their policy choices must be communicated clearly.

# Appendix

**TABLE A-1**  
**An Overview of How ELs Are Included in Colorado’s Accountability System**

ESSA Reporting Element	2018 Report Card Header and Page # (Chapter 2)	Measure	Grades	Need Two Years of Scores? <sup>1</sup>	Are Former ELs Included? <sup>2</sup>	Are Recently Arrived EL (RAEL) Excluded? <sup>3</sup>	95 Percent Participation <sup>4</sup>	Partial-Year Enrollees <sup>5</sup>	Alternate Assessment Reporting <sup>6</sup>	Number of ELs in 2018 <sup>7</sup>
<i>English Language Arts</i>										
Performance	Academic Achievement (p. 7–10)	Number and percent of students at each performance level	3 to 8, 11	No	No, NEP/LEP only	Excludes NEP RAELs in year 1 only; all others included	N/A	Included	CoAlt reported separately	50,096
Academic achievement indicator	Long-Term Goals (p. 25, 27)	Mean scale score	3 to 8, 11	No	Yes, NEP/LEP plus former ELs for four years after reclassification	Excludes NEP RAELs in year 1 and LEP RAELs in years 1 and 2	Includes enough non-participants to reach 95 percent participation rate	Excluded	CoAlt reported together with CMAS or SAT <sup>8</sup>	79,238
Academic progress indicator	Academic Growth (p. 17)	Median student growth percentile	4 to 8, 11	Yes	Yes, NEP/LEP plus former ELs for four years after reclassification	Excludes NEP RAELs in year 2 (no data available for year 1)	N/A	Excluded	CoAlt not reported	61,419
<i>Math</i>										
Performance	Academic Achievement (p. 4–7)	Number and percent of students at each performance level	3 to 8, 11	No	No, NEP/LEP only	Includes RAELs	N/A	Included	CoAlt reported separately	53,456
Academic achievement indicator	Long-Term Goals (p. 24, 26)	Mean scale score	3 to 8, 11	No	Yes, NEP/LEP plus former ELs for four years after reclassification	Includes RAELs except in high school	Includes enough non-participants to reach 95 percent participation rate	Excluded	CoAlt reported together with CMAS or SAT	82,188
Academic progress indicator	Academic Growth (p. 15–16)	Median student growth percentile	4 to 8, 11	Yes	Yes, NEP/LEP plus former ELs for four years after reclassification	Includes RAELs except in high school	N/A	Excluded	CoAlt not reported	64,120



TABLE A-1 (cont.)

## An Overview of How ELs Are Included in Colorado's Accountability System

ESSA Reporting Element	2018 Report Card Header and Page # (Chapter 2)	Measure	Grades	Need Two Years of Scores? <sup>1</sup>	Are Former ELs Included? <sup>2</sup>	Are Recently Arrived EL (RAEL) Excluded? <sup>3</sup>	95 Percent Participation <sup>4</sup>	Partial-Year Enrollees <sup>5</sup>	Alternate Assessment Reporting <sup>6</sup>	Number of ELs in 2018 <sup>7</sup>
<i>Science</i>										
Performance	Academic Achievement (p. 12–14)	Number and percentage of students at each performance level	5, 8, 11	No	No, NEP/LEP only	Includes RAELs	N/A	Included	CoAlt reported separately	17,282
School quality or student success indicator	Indicator of School Quality or Student Success (p. 22)	Mean scale score	5, 8, 11	No	Yes, NEP/LEP plus former ELs for four years after reclassification	Includes RAELs	N/A	Excluded	CoAlt not reported	29,987
<i>English Language Proficiency (ELP)</i>										
Performance	English Language Proficiency (p. 20–21)	Number and percentage of (1) students at each overall ELP level and (2) those deemed proficient based on overall and literacy scores	K to 12	No	No, NEP/LEP only	N/A	N/A	Included	Alternate ACCESS reported separately for measure (1) and together with ACCESS for measure (2)	101,807
ELP indicator (Adequate growth)	Long-Term Goals (p. 28)	Percentage on track to exit	1 to 12	Yes	No, NEP/LEP only	N/A	N/A	Excluded	Alternate ACCESS reported with ACCESS	77,401
ELP indicator (Growth) <sup>9</sup>	(online only)	Median student growth percentile	1 to 12	Yes	No, NEP/LEP only	N/A	N/A	Excluded	Alternate ACCESS reported with ACCESS	77,396
<i>Graduation</i>										
Graduation indicator	Graduation Rates (p. 18–19)	Adjusted cohort graduation rate (4 year and 7 year)	Final year of enrollment	No	Students who were ELs at any time in high school included	N/A	N/A	Included <sup>10</sup>	N/A	7,685

CMAS = Colorado Measures of Academic Success; CoAlt = Colorado Alternate Assessment; CSLA = Colorado Spanish Language Arts Assessment; EL = English Learner; ESSA = *Every Student Succeeds Act of 2015*; LEP = Limited English Proficient; NEP = Non-English Proficient.

1 "Yes" means that students may only be included in the indicator if a growth score can be calculated based on the difference between their current and prior year result (two years of scores are needed). "No" means that any student with a current year score may be included in the calculation (only one year of scores are needed).

## WHICH ENGLISH LEARNERS COUNT WHEN?

- 2 Under ESSA section 1111(b)(3)(B), states may include former ELs for up to four years in the calculation of academic indicators for accountability.
- 3 Under ESSA section 1111(b)(3)(A), states may choose how to include ELs in their first year in U.S. schools in testing on English language arts (ELA) and math. They may test such students and use their scores in the same way as all other students, or they have two options to exclude them. The first is to exempt them from taking the state ELA test but test them in math and ELP and exclude those test scores from accountability calculations. The second option is to test such students in ELA and math, exclude their scores from accountability the first year, and use a growth score for accountability the second year. Colorado selected the first option for NEP students (those who score less than 2.5 on their ELP assessment) and the second for LEP students (who score between 2.5 and 3.9). Additionally, NEP and LEP students in grades 3 and 4 whose native language is Spanish and who have received instruction in Spanish within the previous nine months take Colorado's Spanish Language Arts Assessment instead of CMAS ELA.
- 4 Under ESSA section 1111(c)(4)(E), states are required to ensure 95 percent of all students participate in ELA and math assessments. Nonparticipants in excess of 5 percent must be counted in the denominator of academic achievement indicators. In Colorado, nonparticipants in excess of 5 percent are assigned the lowest-possible scale score of 650.
- 5 Under ESSA section 1111(c)(4)(F), students must be excluded from accountability calculations for any school they attended less than half a school year.
- 6 Under ESSA section 1111(b)(2)(D), alternate assessments may be given to students with the most significant cognitive disabilities, up to 1 percent of the state's student population.
- 7 This column shows the number of ELs whose results were included in each indicator; data were taken from the 2018 State Report Card except for the academic achievement indicator in ELA and math and progress in achieving ELP (growth), which was taken from the State Accountability Data Explorer (see sources below). A small number of ELs taking the CoAlt or the CMAS Science could not be accounted for as their results were suppressed for privacy reasons.
- 8 For the ELA and math academic achievement indicators, CoAlt participants are reported together with CMAS or SAT participants in the PDF version of the state report card, but each may be viewed separately on Colorado's online state accountability data explorer (see sources below).
- 9 The ELP indicator in Colorado's ESSA plan includes two different measures. Results from the growth measure are not included in the state report card but may be found in the online data explorer under the WIDA ACCESS for English Learners tab, outcome measure "Growth—Median SGP" (see sources below).
- 10 In order to calculate high school graduation rates, ESSA allows districts to assign students enrolled less than half a year who drop out of school to the high school they attended the longest in the district or to the last high school attended.

Sources: Colorado Department of Education (CDE), *Consolidated State Plan under the Every Student Succeeds Act (ESSA)* (Denver: CDE, 2018); CDE, "Every Student Succeeds Act (ESSA) State Report Card—Chapter 2: 2018 Performance of All K-12 Students," updated December 2018; CDE, "State Accountability Data Explorer," updated June 4, 2019.

## Endnotes

- 1 See Nina Lee Webster and Chunlei Lu, “English Language Learners: An Analysis of Perplexing ESL-Related Terminology,” *Language and Literacy* 14, no. 3 (2012): 83–94.
- 2 Webster and Lu, “English Language Learners.”
- 3 Note, however, that users of this term rarely address whether the students in question develop academic proficiency in their native language. Many immigrant-background children lose their native language proficiency as English takes on a bigger role in their lives and as they assimilate to U.S. norms.
- 4 Julie Sugarman, *A Matter of Design: English Learner Program Models in K-12 Education* (Washington, DC: Migration Policy Institute, 2018).
- 5 Robert H. Linqunti, Gary Cook, Alison L. Bailey, and Rita MacDonald, *Moving Toward a More Common Definition of English Learner: Collected Guidance for States and Multi-State Assessment Consortia* (Washington, DC: Council of Chief State School Officers, 2016), 9–10; Julie Sugarman, *Legal Protections for K-12 English Learner and Immigrant-Background Students* (Washington, DC: Migration Policy Institute, 2019).
- 6 Sugarman, *Legal Protections*.
- 7 Both consortia are known by their acronyms. WIDA previously stood for World-Class Instructional Design and Assessment, but it no longer uses that name. ELPA21 stands for English Language Proficiency Assessment for the 21st Century. WIDA states are Alabama, Alaska, Colorado, Delaware, the District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Wisconsin, and Wyoming. ELPA21 states are Arkansas, Iowa, Nebraska, Ohio, Oregon, Washington State, and West Virginia.
- 8 Leslie Villegas and Delia Pompa, *The Patchy Landscape of State English Learner Policies under ESSA* (Washington, DC: Migration Policy Institute, 2020).
- 9 LAS Links is known by its acronym, but it previously stood for Language Assessment Scales. LAS Links states are Connecticut and Mississippi. States with their own English language proficiency (ELP) standards and assessments are Arizona, California, Kansas, Louisiana, New York State, and Texas.
- 10 Villegas and Pompa, *The Patchy Landscape of State English Learner Policies under ESSA*.
- 11 Villegas and Pompa, *The Patchy Landscape of State English Learner Policies under ESSA*.
- 12 For more information on reporting under the *Every Student Succeeds Act* (ESSA), see Center for Parent Information and Resources, “Annual State and Local Report Cards—ESSA Fact Sheet,” updated May 19, 2018.
- 13 Colorado was selected because its ESSA policy choices exemplified the variation in EL subgroup composition that will be discussed in Section 4 and because its 2018 State Report Card could be easily referenced by page number. The use of Colorado as an example is neither an endorsement nor a criticism of the state’s ESSA-related policy choices.
- 14 See U.S. Department of Education, *Opportunities and Responsibilities for State and Local Report Cards under the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act* (Washington, DC: U.S. Department of Education, 2017), 27.
- 15 Colorado Department of Education (CDE), *Chapter 2: 2018 Performance of All K-12 Students* (Denver, CO: CDE, 2018), 3–14.
- 16 CDE, *Chapter 2: 2018 Performance of All K-12 Students*, 23–28.
- 17 CDE, *Chapter 2: 2018 Performance of All K-12 Students*, 14–17.
- 18 CDE, *Chapter 2: 2018 Performance of All K-12 Students*, 21–22.
- 19 CDE, *Chapter 2: 2018 Performance of All K-12 Students*, 20–21.
- 20 CDE, *Chapter 2: 2018 Performance of All K-12 Students*, 28.
- 21 CDE, “State Accountability Data Explorer,” updated June 4, 2019.
- 22 For a comprehensive explanation of the adjusted cohort graduation rate, see Julie Sugarman, *The Unintended Consequences for English Learners of Using the Four-Year Graduation Rate for School Accountability* (Washington, DC: Migration Policy Institute, 2019).
- 23 CDE, *Chapter 2: 2018 Performance of All K-12 Students*, 18–19.
- 24 CDE, *Chapter 2: 2018 Performance of All K-12 Students*, 27–28.
- 25 U.S. Department of Education, *Opportunities and Responsibilities for State and Local Report Cards*, 28.
- 26 U.S. Department of Education, *Opportunities and Responsibilities for State and Local Report Cards*, 22.
- 27 Federal guidance, however, recommends it. See U.S. Department of Education, *Opportunities and Responsibilities for State and Local Report Cards*, 27.
- 28 ELP scores for ELs in their first year in U.S. schools would not be included in the ELP indicator in any event, since all ELP indicators are growth calculations (the second year score minus the first year score).
- 29 CDE, *2018 District and School Performance Framework Calculation Guidebook* (Denver, CO: CDE, 2019), 18.
- 30 CDE, “State Accountability Data Explorer.”
- 31 CDE, “Colorado Growth Model FAQs (General),” updated December 14, 2016.
- 32 *Elementary and Secondary Education Act of 1965*, as amended through the *Every Student Succeeds Act*, Public Law 114–95, 114th Cong., 2d sess. (December 10, 2015): 38.

- 33 Iowa Department of Education, *Every Student Succeeds Act in Iowa* (Des Moines: Iowa Department of Education, 2018), 48; North Carolina State Board of Education, *The Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act: Consolidated State Plan* (Raleigh: North Carolina State Board of Education, 2018), 37; West Virginia Department of Education, *West Virginia's Consolidated State Plan* (Charleston, WV: West Virginia Department of Education, 2018), 23.
- 34 These states are California, Colorado, Delaware, Florida, Georgia, Hawaii, Indiana, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, North Dakota, Texas, Virginia, Wisconsin, and Wyoming.
- 35 Migration Policy Institute (MPI) analysis of 50 state and District of Columbia ESSA plans, which are aggregated at U.S. Department of Education, “ESSA State Plan Submission,” updated November 8, 2017.
- 36 U.S. Department of Education, *Every Student Succeeds Act High School Graduation Rate Non-Regulatory Guidance* (Washington, DC: U.S. Department of Education, 2017).
- 37 U.S. Department of Education, *No Child Left Behind: High School Graduation Rate—Non-Regulatory Guidance* (Washington, DC: U.S. Department of Education, 2008).
- 38 Some states use more than one EL subgroup composition for accountability calculations (these include Kentucky, Indiana, and Texas). Others report graduation rates for multiple EL subgroups—such as both current and former ELs—on their dashboards (e.g., Oregon and South Dakota). In these cases, MPI’s analysis is based on the composition used for the ESSA-defined graduation rate indicator.
- 39 Julie Sugarman, *A Guide to Finding and Understanding English Learner Data* (Washington, DC: MPI, 2018).
- 40 Nora Gordon, “How State ESSA Accountability Plans Can Shine a Statistically Sound Light on More Students” (Evidence Speaks Reports, vol. 2, no. 17, Brookings Institution, Washington, DC, June 29, 2017).
- 41 Kenji Hakuta, Yuko Goto Butler, and Daria Witt, *How Long Does It Take English Learners to Attain Proficiency?* (N.p.: University of California Linguistic Minority Research Institute, 2000).
- 42 Schools are not allowed to ask families about immigration status directly. Federal guidance suggests this information may be obtained by asking about a student’s date of birth, place of birth, and prior school enrollment. See U.S. Department of Education, “Fact Sheet II: Additional Questions and Answers on Enrolling New Immigrant Students,” accessed May 9, 2019.
- 43 *Elementary and Secondary Education Act of 1965*, 212.
- 44 Minnesota Department of Education, “SLIFE,” accessed October 3, 2019; New York State Education Department, “Students with Interrupted/Inconsistent Formal Education (SIFE): Questions and Answers” (guidance document, New York State Education Department, Albany, NY, n.d.); Oregon Department of Education, “Data Collections for Title III—Recent Arrivers FAQ,” accessed October 3, 2019.
- 45 Villegas and Pompa, *The Patchy Landscape of State English Learner Policies under ESSA*.
- 46 Laurie Olsen, *Reparable Harm: Fulfilling the Unkept Promise of Educational Opportunity for California’s Long Term English Learners* (Long Beach, CA: Californians Together, 2010).
- 47 Olsen, *Reparable Harm*.
- 48 *Elementary and Secondary Education Act of 1965*, 209.
- 49 Sugarman, *Legal Protections*.
- 50 The Education Trust–West, “Safe Schools for Immigrant Students—AB 699 (O’Donnell): Implementation Fact Sheet” (fact sheet, The Education Trust–West, Oakland, CA, n.d.).
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