

U.S. DEPARTMENT OF EDUCATION

**OFFICE OF ENGLISH LANGUAGE ACQUISITION, LANGUAGE
ENHANCEMENT, AND ACADEMIC ACHIEVEMENT FOR
LIMITED ENGLISH PROFICIENT STUDENTS**

**Part II: FINAL NON-REGULATORY GUIDANCE ON THE
TITLE III STATE FORMULA GRANT PROGRAM -
STANDARDS, ASSESSMENTS AND ACCOUNTABILITY**

**ELEMENTARY AND SECONDARY EDUCATION ACT, AS
AMENDED BY THE NO CHILD LEFT BEHIND ACT OF 2001**

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A. INTRODUCTION

Overview of Major Provisions

This document provides guidance on standards, assessments, and accountability under the State Formula Grant Program authorized under Title III, Part A of the Elementary and Secondary Education Act as reauthorized by the No Child Left Behind Act of 2001 (NCLB). This guidance is a follow-up to the guidance document issued on April 30, 2002, which explains how State educational agencies (SEAs) and local educational agencies (LEAs) apply for funds and begin to implement the program (<http://www.ed.gov/offices/OELA/nrgcomp.html>).

The major goals of Title III are to help ensure that limited English proficient (LEP) children attain English proficiency, develop high levels of academic competence in English, and meet the same challenging State academic content and student academic achievement standards that all children are expected to meet. Title III holds States, LEAs, and individual schools accountable for meeting these goals.

Title III requires SEAs receiving funds under this program to establish English language proficiency standards, identify or develop, and implement English language proficiency assessments, and define annual achievement objectives for increasing and measuring the level of LEP children's development and attainment of English proficiency. The English language proficiency standards must be based upon the four domains of speaking, reading, writing, and listening. However, the LEA must assess LEP children in the five domains of speaking, reading, writing, listening, and comprehension.

Title III requires SEAs to hold LEAs accountable for meeting annual measurable achievement objectives that relate to LEP children's development and attainment of English proficiency and academic achievement. LEAs must assess, on an annual basis, the progress of LEP children enrolled in Title III language instructional programs in attaining English proficiency in the five domains listed above. In addition, Title III requires LEAs to report on the progress made by LEP children in meeting State academic content and achievement standards for each of the two years after these children no longer receive services under Title III.

Many Title III requirements are linked to Title I, Part A accountability provisions. Both Titles hold SEAs, LEAs, and schools accountable for improving the English proficiency and academic achievement of LEP students. Relevant Title I provisions are cited and explained throughout this document. SEAs should also refer to the forthcoming Title I, Part A non-regulatory standards and assessment guidance and accountability guidance for additional information related to the provisions in this document.

Title I requires that each State ensure that LEAs administer an annual assessment of the English oral, reading and writing skills of all LEP students enrolled in schools in the State. The results from the annual English language proficiency assessment must be a part of the State accountability system.

Title I also requires each State to develop a system of school and district accountability based on academic content assessments that accurately measure student achievement relative to State content and achievement standards in reading/language arts and mathematics. All LEP students, regardless of the amount of time they have been in a school, district, or the United States, are to be included in these academic assessments with reasonable accommodations including, to the extent practicable, native language versions of the assessments.

Title I further requires that LEP students who have been in the United States for three or more consecutive years be assessed in reading or language arts in English. However, LEAs can, in agreement with the SEA, conduct these assessments on an individual basis in a language other than English for up to two additional years for students who have not yet reached a level of English proficiency sufficient to yield valid and reliable information on what these students know and can do on an assessment written in English.

B. ENGLISH LANGUAGE PROFICIENCY STANDARDS

Under NCLB, States will establish three types of standards: English language proficiency standards and academic content and performance standards. States will measure student achievement towards these standards through the annual administration of English language proficiency assessments and academic content assessments. Finally, States will establish annual measurable objectives that identify a minimum percentage of students who must meet or exceed proficiency in the English language and in the academic content areas. The standards, assessments, and annual measurable objectives required for LEP students and all students in the State are demonstrated in the Table I below. Detailed information on assessments and annual measurable objectives can be found in later sections of this guidance document.

Table I: Standards, Assessments and Annual Measurable Objective Requirements in NCLB

	STANDARDS	ASSESSMENTS	ANNUAL MEASURABLE OBJECTIVES
For LEP Students Only	English Language Proficiency Standards	English Language Proficiency Assessments	English Language Proficiency Annual Measurable Objectives
For ALL Students (including LEP Students)	Academic Content Standards (reading/language arts, mathematics, science) Academic Achievement Standards (reading/language arts, mathematics, science)	Academic Assessments in reading/language arts, mathematics, and science	Annual Measurable Objectives in reading/language arts and mathematics

Table 2: The Goal of Title I and Title III Requirements: English Language Proficiency and Academic Achievement for LEP Students

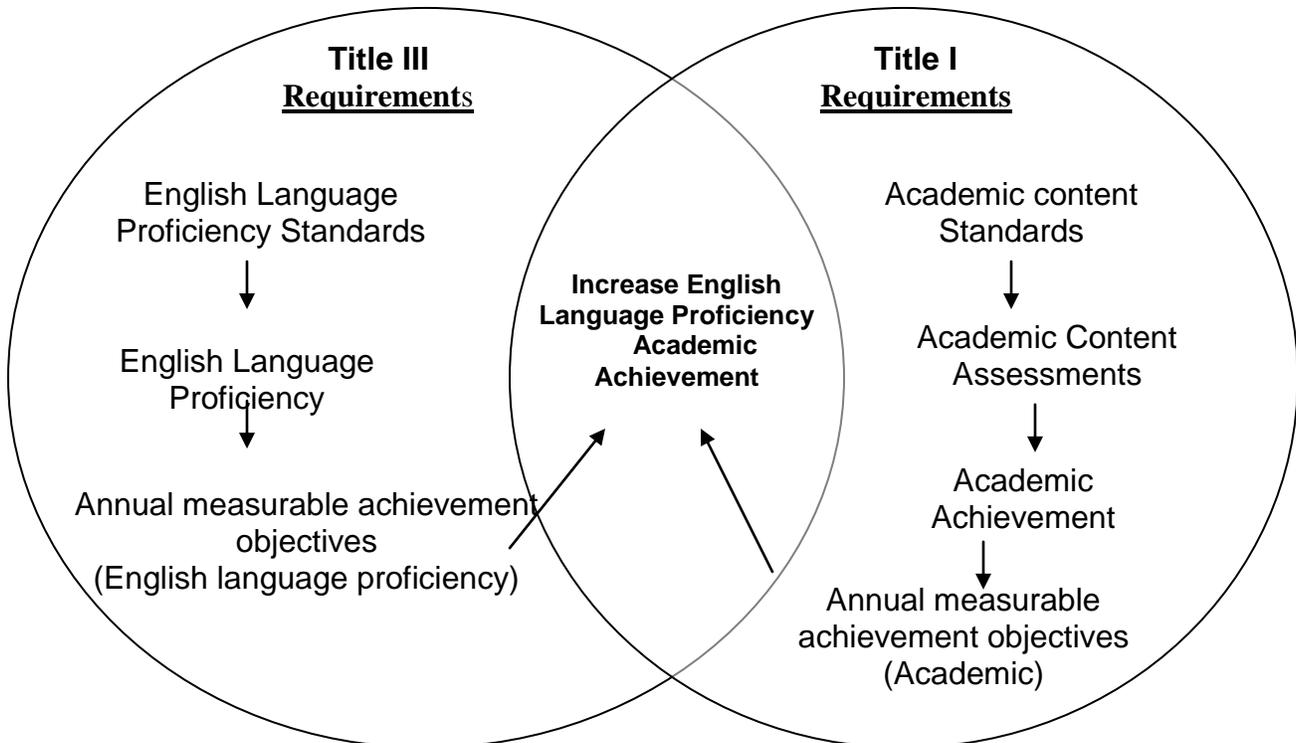


Table 3: Deadlines for Implementation of Standards and Assessment Requirements

	REQUIREMENT	DATE DUE
For Title I	State Accountability Workbook	January 31, 2003
	Annual Measurable Achievement Objectives for Reading/Language Arts and Mathematics	May 1, 2003
	Baseline data 2001-2002 school year	May 1, 2003
	Non-AYP Baseline Data	September 1, 2003
For Title III	English language proficiency Annual Measurable Achievement Objectives	May 1, 2003
	English language proficiency baseline data (2002-2003 school year)	September 1, 2003
	Annual Performance Report	April 30, 2004
	Biennial Evaluation Report	September 30, 2004

B-1. What are English language proficiency standards?

English language proficiency standards define progressive levels of competence in the use of English in the four domains of listening, speaking, reading, and writing. Comprehension, as exhibited through listening and reading, must also be considered when States develop their English language proficiency standards. Additionally, English language proficiency standards should set clear benchmarks of progress that reflect differences for students entering school at various grade levels.

English language proficiency standards include several components:

- A label for each level, such as “ Novice,” “Intermediate,” and “Advanced;”
- A brief narrative description that suggests the defining characteristics of the level, such as “the student understands and speaks conversational and academic English with decreasing hesitancy and difficulty” and a description of what students can do in content at this level of English language proficiency, such as read and understand simplified books of original literary works required in English language arts at the same grade; and
- An assessment score that determines the attainment of the level.

B-2 May States use their reading or language arts standards as their English language proficiency standards?

No. Reading/language arts standards are not the same as English language proficiency standards. English language proficiency standards should be specifically developed for limited English proficient students and define progressive levels of competence in the acquisition of the English language. Reading/language arts standards describe what all students should know and be able to do in the specific academic content areas of, for example, mathematics, science, history, and reading.

Although English language proficiency and reading/language arts academic standards are different, they should be linked to one another. English language proficiency standards should define proficiency levels that will help LEP students to acquire the English language skills necessary to meet academic content and achievement standards. As such, English language proficiency standards should be designed to assist teachers in moving LEP students both towards proficiency in the English language

and towards proficiency on a State's academic content standards. The goal of English language proficiency standards is to build a foundation in the English language that will enable LEP students to succeed in all their academic content subjects.

Below are examples of English language proficiency standards and reading/language arts standards. A fifth-grade level LEP student who has achieved English language proficiency would demonstrate some of the skills listed below:

EXAMPLE OF ENGLISH LANGUAGE ACQUISITION/PROFICIENCY LEVEL IN READING

The student can:

- comprehend reading passages written in familiar or short sentence patterns and verbalize some of the main points of the passages
- use acquired knowledge of the English language to learn and understand new vocabulary in context
- identify and pronounce English phonemes in context

An example of some of the skills that a LEP student who has achieved academic proficiency in reading at the fifth-grade level would demonstrate are:

EXAMPLE OF ACADEMIC PROFICIENCY IN READING

The student can:

- independently read and comprehend a grade-level appropriate text and write a short essay describing the main idea of the text
- apply knowledge of reading strategies to comprehend the text of the next higher level of difficulty
- based on reading skills and strategies, comprehend and analyze elements of nonfiction and fiction texts, such as point of view of the author or conflict and resolution in a fiction work

While the English language proficiency standards are linked to the academic content standards in reading, the two types of standards are clearly not the same.

B-3. What is the relationship between English language proficiency standards, English language proficiency annual measurable achievement objectives, and English language proficiency assessment?

English language proficiency standards must, at a minimum, be linked to the State academic content and achievement standards. States are encouraged, but not required, to align English language proficiency standards with academic content and achievement standards. Annual measurable achievement objectives for English language proficiency serve as targets for achievement of the English language proficiency standards. English language proficiency assessments must be aligned with English language proficiency standards and provide a means of

demonstrating progress towards meeting the English language proficiency annual measurable achievement objectives.

B-4. When must States establish English language proficiency standards?

States must establish English language proficiency standards and annual measurable achievement objectives during the 2002-2003 school year.

B-5. Why must English language proficiency standards be linked to academic standards?

The statute requires English language proficiency standards to be linked to State academic content and achievement standards in reading or language arts and in mathematics beginning in the school year 2002-2003. This is required in order to ensure that LEP students can attain proficiency in both English language and in reading/language arts, math and science. English language proficiency standards should also be linked to the State academic standards in science beginning in the school year 2005-2006.

C. ENGLISH LANGUAGE PROFICIENCY ASSESSMENTS

C-1. What are the assessment requirements for LEP students under NCLB?

Both Title I and Title III require two types of assessments (academic content and English language proficiency) for students with limited English proficiency (LEP):

- LEAs must annually assess their LEP students (K-12) in English language proficiency.
- States must include all LEP students in their academic content assessments in reading/language arts, mathematics, and science. Inclusion of LEP students can take the form of providing appropriate linguistic accommodations and/or using an assessment in the student's native language that is aligned to the State content and achievement standards. However, after three years of attending a school in the United States (except for those residing in Puerto Rico), students must be assessed in reading/language arts in English. This does not exempt students from participating in the State assessment system in their first three years of attending schools in the United States. Inclusion in the State academic assessment system must begin immediately when the student enrolls in school. No exemptions are permitted based on time in English instruction.

C-2. May states use the same assessment for testing English language proficiency under Title I and Title III?

Yes. The requirement for testing for English language proficiency is the same under both Titles I and III. Both Titles I and III require LEAs and SEAs to provide for an annual assessment of English language proficiency in the four domains of reading, writing, speaking, and listening. Title III also requires LEAs and SEAs to report student progress in English language comprehension. Although Title III requires SEAs and LEAs to report a separate score for the domain of comprehension, a separate assessment instrument is not required for Title I and Title III. Comprehension may be demonstrated through

reading and listening. For the measurement of reading comprehension, LEAs may report on a student's ability to read grade-level English proficiency texts with understanding and report on a student's ability to appropriately provide grade level demonstrations of that understanding. The measurement of listening comprehension includes both the student's ability to comprehend and respond in social interactions and the student's ability to understand and perform in academics.

C-3. Must English language proficiency assessments be aligned with State English language proficiency standards?

Yes. States may develop their own tests or use commercially developed English language proficiency assessment(s). However, they must ensure that any English language proficiency assessment(s) that they use are aligned with their English language proficiency standards.

C-4. May States change the English language proficiency assessments they use?

Yes. A State may change its English language proficiency assessments, as long as it documents how the State will maintain continuity and program accountability across assessments. A State might determine that a different assessment more accurately measures English language proficiency or is more closely aligned with its State standards. In making any changes to their English language proficiency assessments, States should consult with appropriate experts and stakeholders, provide timely notification, and provide any training required to LEAs. Any changes must be submitted as an amendment to the State consolidated application, for review by the Department.

C-5. Must a State use a single assessment of English language proficiency statewide or may a State use multiple assessments?

No. States may, but are not required to mandate the use of one particular assessment by all school districts in the State. However, the use of one English language proficiency assessment will enhance the ability of the State to demonstrate progress uniformly throughout the State for reporting purposes.

If States allow multiple English language proficiency assessments throughout the State, States should:

- Set technical criteria for the assessments.
- Ensure the assessments are equivalent to one another in their content, difficulty, and quality.
- Review and approve each assessment.
- Ensure that the data from all assessments can be aggregated for comparison and reporting purposes, as well as disaggregated by English language proficiency levels and grade levels.
- Ensure that the assessments are aligned with the State English language proficiency standards.

C-6. May States or LEAs use Title III funds to purchase assessments that measure English language proficiency?

States and LEAs may use Title III funds to acquire new assessments that measure English language proficiency. However, States should ensure that the assessments are aligned with their English language proficiency standards.

In addition, they may use funds they receive by formula under ESEA section 6111 (Grants for State Assessments Program) or competitively under 6112 (Grants for Enhanced Assessment Instruments Program) for this purpose.

C-7. If a State does not have an English language proficiency assessment, can it use a reading assessment as a substitute?

No. Just as English language proficiency standards and reading standards differ, so do English language proficiency assessments and reading assessments. English language proficiency assessments, which must be aligned with the State's English language proficiency standards, are designed to assess students' English language development. Content area assessments (including reading assessments), which must be aligned to the State's content standards, are designed to assess what students know in academic content areas.

Reading assessments that measure academic proficiency in reading will not accurately measure LEP students' level of English language proficiency. Thus, reading assessments are not valid or reliable assessments of English language proficiency.

C-8. When must States begin requiring LEAs to conduct an annual assessment of the English language proficiency of LEP students?

Both Title I and Title III require LEAs to conduct, beginning in school year 2002-2003, an annual assessment of English language proficiency of all students with limited English proficiency in the schools of the State.

C-9. May an LEA delay implementation of the requirement for annual English language proficiency assessment or annual academic content assessment of LEP students?

No. The statute provides no exception to the requirement to assess LEP students annually in English language proficiency and academic achievement. Each State must implement policies and procedures to ensure that all students enrolled in schools in the State who meet the definition of limited English proficient in section 9101(25) participate in the annual State English language proficiency assessment(s) and the annual State academic assessments.

D. ACADEMIC CONTENT ASSESSMENTS

D-1. What are the requirements for inclusion of LEP students in State assessments in the academic content areas?

In order to receive federal funds under Title I and Title III, States must include all LEP students in their State assessment system. Inclusion of LEP students can take the form of providing appropriate linguistic accommodations and/or using an assessment in the student's native language that is aligned to the State content and achievement standards. However, after three years of attending a school in the United States (except for those residing in Puerto Rico), students must be assessed in reading/language arts in English. LEAs can, on an individual basis, conduct these assessments in a language other than English for up to two additional years for students who have not yet reached a level of English proficiency sufficient to yield valid and reliable information on what the student knows and can do on an assessment written in English [Section 1111(b)(3)(C)(x)].

This requirement does not exempt students from participating in the State assessment system in their first three years of attending schools in the United States. Inclusion in the State academic assessment system must immediately begin when the student enrolls in school. No exemptions are permitted based on time in English instruction.

D-2 What accommodations are allowed for LEP students on a State's academic assessments?

Both Title I and Title III require States to provide reasonable accommodations on State academic content assessments for LEP students, to the extent practicable. These accommodations would allow for LEP students participation in and provide more accurate and reliable information on what LEP students know and can do in meeting the State academic content and achievement standards.

Some commonly used accommodations for LEP students include:

- Native-language assessments,
- Linguistic simplifications, e.g., using simple words when testing content knowledge and skills instead of language proficiency,
- Simplified instruction,
- Extra time, and
- Allowing use of dictionary or providing glossary on the assessment.

These accommodations shall be used when LEP students participate in academic content assessments, not for participation in English language proficiency assessments.

E. ENGLISH LANGUAGE PROFICIENCY ANNUAL MEASURABLE ACHIEVEMENT OBJECTIVES

E-1. What are English language proficiency annual measurable achievement objectives and how are they established?

Annual measurable achievement objectives are State-defined achievement targets that States will use to evaluate the effectiveness of language instructional programs. These objectives are based on the English language proficiency standards and relate to LEP students' development and attainment of English language proficiency.

Section 3122 establishes requirements for annual measurable achievement objectives. They must

- reflect the amount of time a LEP student has been enrolled in a language instruction educational program, and expected attainment of English language proficiency
- set targets for annual increases in the number or percentage of children making progress in learning English, and annual increases in the number or percentage of children attaining English language proficiency by the end of each school year. These data must be determined through consistent methods and measurements, including a valid and reliable assessment of English language proficiency in oral language, reading, and writing skills that is consistent with the requirements in section 1111(b)(7). The assessment should also measure students' comprehension level, which should be derived through the analysis of reading and listening assessment .
- set targets for schools and LEAs making adequate yearly progress with respect to LEP students, on assessments in the academic areas. Section 1111(b)(2)(B) of the Act requires States to define "adequate yearly progress" in reading/language arts and mathematics, including specific performance expectations for LEP students.

In addition, section 3113(b)(3)(A) requires States to consult with LEAs, school administrators, teachers, parents, education-related nonprofit organizations, the research community, and relevant community based organizations in developing their annual measurable achievement objectives.

E-2. How are the annual measurable objectives under Title III used?

The annual measurable objectives are used to hold LEAs receiving Title III grants accountable for improving English proficiency. Each LEA is required to evaluate their program on an annual basis. The objectives are also used as one of the indicators required to measure whether a state has made adequate yearly progress (AYP), as required under Title I. For more information about State AYP under Title I, please see the final Title I regulations issued on December 2, 2002, and forthcoming Departmental guidance on accountability.

E-3. When must States establish annual measurable objectives related to LEP students'

attainment of English proficiency?

States must establish annual measurable achievement objectives during the 2002-2003 school year. The annual measurable achievement objectives must be submitted to the Department in May 2003, as part of the State consolidated application [refer to Table 3]. In order to apply the English language proficiency standards and annual measurable achievement objectives to language proficiency assessments implemented in the 2002-03 school year, States will need to begin work on these components immediately.

F. ACCOUNTABILITY AND EVALUATION

F-1. How are States held accountable for limited English proficient students' achievement in English?

States are held accountable for improving LEP English proficiency through public reporting and by State AYP requirements. Beginning no later than school year 2002-03, all States receiving Title I, Part A funds shall report annually to the Department information on LEP students' acquisition of English. Furthermore, all States shall make this information widely available within the State (Section 1111(b)(2)(E)(4)(D)).

F-2. Will the results of the English language proficiency assessment be used to determine AYP?

Yes. NCLB only requires these results to be included in measuring AYP at the state level. The Secretary, through an annual peer review, will determine:

- Whether a State has made AYP for each group of students as defined in 1111(b)(2)
- Whether a State has met its annual measurable achievement objectives for LEP attainment of English language proficiency under Title III.

F-3. What is a State required to do if an LEA fails to meet the annual measurable achievement objectives for English language proficiency?

If a State determines that an LEA has failed to make progress toward meeting the annual measurable achievement objectives for two consecutive years, the SEA must require the LEA to develop an improvement plan. The improvement plan shall specifically address the factors that prevented the LEA from meeting its objectives (3122(b)(2)). The State must also provide technical assistance during the development and throughout the implementation of this improvement plan.

If a State determines that an LEA has failed to meet the annual measurable achievement objectives for four consecutive years, the State must:

- (1) require modification of the LEA's curriculum, program, and method of instruction; or
- (2) (a) determine if the LEA will continue to receive funds; and
(b) require the LEA to replace educational personnel relevant to the LEA's failure to meet the objectives.

F-4. For what purposes must States and LEAs use the evaluations of LEA progress required under Title III?

States and LEAs must use the evaluations to:

- (1) improve programs and activities;
- (2) determine the effectiveness of programs and activities in assisting LEP children to attain English language proficiency and meet challenging State academic content and student academic achievement standards; and
- (3) determine whether or not to continue specific programs or activities.

States must use the information contained in the evaluations to determine whether LEAs have met the annual measurable achievement objectives, including adequate yearly progress.

The Department plans to issue additional guidance on state evaluations.

F-5. What are the evaluation requirements for LEAs that receive Title III subgrants?

LEAs that receive Title III subgrants must submit every second fiscal year an evaluation, in a manner determined by the State, that includes a description of the programs and activities conducted by the school district with Title III funds during the two immediately preceding fiscal years.

Evaluation Components

The evaluation must:

- (1) Describe the progress children have made in attaining English language proficiency, including the percentage of children who have achieved that proficiency;
- (2) Indicate the percentage of children who have transitioned into instructional settings that are not designed for LEP students, and have a sufficient level of English language proficiency to achieve in English and make that transition; and
- (3) Indicate the percentage of children who have made progress in meeting the same State academic content and student academic achievement standards that all children are expected to meet

Evaluation Measures

The measures in the local evaluation should assess:

- (1) The progress of children in attaining English proficiency, including the level of comprehension, speaking, listening, reading, and writing in English;
- (2) Student attainment of challenging State student academic achievement standards as measured by performance on State content assessments; and
- (3) Student progress in meeting the annual measurable achievement objectives for English language proficiency.

G. REPORTING REQUIREMENTS

G-1. What are the reporting requirements for States that receive Title III funds?

States that submitted an ESEA consolidated application in 2002 must submit a consolidated annual performance report. The Department has established a deadline of April 30, 2004, for these reports and will provide additional information about the format and content in the near future.

In addition, each State educational agency receiving funds under Title III must prepare and submit a biennial evaluation report on programs and activities carried out by the State. This report must provide information about the effectiveness of the programs and activities in improving the education provided to limited English proficient students. The Department has established a deadline of September 30, 2004, for these reports and will provide additional information about the format and content in the near future.

G-2. When must States submit the first biennial evaluation report?

The first biennial report must cover school years 2002-2003 and 2003-2004 and should be submitted no later than September 30, 2004. The Department will provide additional information about the format and content in the near future-.

G-3. What specific information and data must States include in the biennial evaluation report?

States are required to submit a report that incorporates the information provided in the evaluations by LEAs. The report must contain the following information:

1. Information about the programs and activities implemented under Title III, and the effectiveness of those programs and activities in improving the academic achievement and English language proficiency of LEP children;
2. Information on the types of language instruction educational programs used by LEAs receiving Title III funding;
3. The number of programs or activities that were terminated because the LEAs implementing those programs and activities did not reach program goals;
4. A synthesis of the data reported by LEAs in their evaluations;
5. A description of technical assistance and other assistance provided by the SEA;
6. An estimate of the number of certified or licensed teachers in the State who are working in language instruction educational programs and educating limited English proficient children, and an estimate of the number of teachers that will be needed for the succeeding five fiscal years;
7. The number of limited English proficient children served by LEAs receiving Title III funding who transitioned out of language instruction educational programs into

instructional settings where instruction is not tailored for limited English proficient children; and

8. Other information gathered from the evaluations submitted by LEAs.

G-4. May States use exit or transition data to document progress?

Yes, exit or transition data can be used and reported in the biennial evaluation report as one indicator of progress. Students who exit or transition from language instruction educational programs supported with Title III funds must be monitored by the LEA for two years after they are enrolled in classrooms where instruction is not tailored for LEP students. The LEAs must provide the State with a description of the progress made by these children in meeting the State academic content and student academic achievement standards for each of the two years after these children no longer receive services under Title III.

“Exit data” are data on the LEP students who are no longer receiving services provided specifically to LEP students.

“Transition data” are data on the LEP students who were placed into mainstream English-only instructional programs for some subjects, although they may continue to receive LEP services or support in other subjects.

In some cases, for some states, the two types of data are the same or interchangeable. When using such data, the State should provide their definition of exit or transition data.

H. TECHNICAL RESOURCES¹

H-1. What resources provide information on the measurement of English language proficiency?

“AskNCELA 25” describes commonly used English language proficiency assessments:

<http://www.ncela.gwu.edu/askncela/index.htm>.

Many of the descriptions of individual assessments are drawn from the searchable test database maintained by the ERIC Clearinghouse on Assessment and Evaluation:

<http://www.ericae.net/eac>.

H-2. What resources provide information on the development of English language proficiency standards?

These are resource guides and not endorsements of the web sites or providers of the contents.

The Council for Chief State School Officers' draft document, Summary of State Responses to Informal Survey on State Development of English Language Development and Aligned ELD Assessment, includes a chart showing the status of States' development of ESL/ELD standards and aligned assessments as of Spring 2001:

<http://www.ccsso.org/pdfs/lepsurvey.pdf>.