

**SOUTH CAROLINA
STATE DEPARTMENT
OF EDUCATION**

**ENGLISH LANGUAGE
LEARNING
HANDBOOK**

August 2016

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INTRODUCTION

This document, English Language Learning Handbook, is an outgrowth of the voluntary agreement between the U. S. Department of Education (USED) Office for Civil Rights (OCR) and the South Carolina Department of Education (SCDE), to provide services to students who are English language learners (ELLs). It is intended to provide guidance and assistance to all local educational agencies (LEAs) in understanding the basic requirements and guidance for policies, procedures, and practices for enrolling, identifying, serving and assessing, English language learners (ELLs).

Voluntary agreement activity, which assures compliance with federal law, has been implemented in South Carolina (SC) as set forth in Compliance Review #04-96-5021. The foundation in federal law for prohibition of discrimination in access to public school and public school programs is found in the U.S. Supreme Court ruling for Plyler vs. Doe, 1982, Title III of the No Child Left Behind Act of 2001 (NCLB) and Title VI of the Civil Rights Act of 1964. The Supreme Court ruled in Plyler vs. Doe that states may not deny a free public education to undocumented immigrant children. Title III of NCLB provides that a student shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language minority status. Title VI of the Civil Rights Act of 1964 prohibits discrimination in programs and activities that receive federal financial assistance. Lau v Nichols requires that language minority students should receive specific instructional assistance in acquiring English to fully access the entire educational program within the school system. Additionally, the regulatory requirements of Title VI have been interpreted to prohibit denial of equal access to education owing to a language minority student's limited proficiency in English. Thus, the local education agency (LEA) is responsible for providing any necessary intervention that assists both in access and achievement for limited English proficient students.

The number of families in SC demonstrating limited English proficiency has increased significantly in recent years. These families include immigrants, migratory workers, and others whose children may have limited English proficiency. The children are in SC schools and are working to learn core content taught in English. Their ability to learn this content may be adversely affected by the lack of appropriate accommodations in the classroom or opportunity through programs that provide English language learning. Students with limited English proficiency sometimes experience great difficulty with the dual task of learning the English language and learning academics taught in that language at the same time. These students are at a higher risk of dropping out of school and may consequently have reduced employment opportunity.

The SCDE is committed to providing all students equal opportunity to benefit from educational programs and services. Moreover, the SCDE is committed to supporting scientifically research-based programs, effective practices,

training, and accountability so that all students can become proficient in English and can achieve the state academic content standards and state student academic achievement standards.

The SCDE has the responsibility for implementing Title III of NCLB (Language Instruction for Limited English Proficient and Immigrant Students). Title III provides funding to supplement English for Speakers of Other Languages (ESOL) programs and services within LEAs. Lau v Nichols requires that language minority students should receive specific instructional assistance in acquiring English to fully access the entire educational program within the school system.

The SCDE submits to the USED at least annually, and upon request, data and information to reflect participation rates and implementation and evaluation of English language instruction educational programs.

The SCDE is responsible for monitoring LEA compliance with law and regulatory requirements pertinent to provision of enrollment, access and achievement opportunity for all children. Questions about LEA responsibilities for school enrollment and provision of services to ELLs may be directed to:

Catherine Neff
Title III/ESOL Consultant
512-B Rutledge Building
1429 Senate Street
Columbia, SC 29201
Phone: 803-734-2880
Fax: 803-734-3290
cneff@ed.sc.gov

Jennifer Clytus
Title III/ESOL Consultant
512-B Rutledge Building
1429 Senate Street
Columbia, SC 29201
Phone: 803-734-8306
Fax: 803-734-3290
jclytus@ed.sc.gov

Definitions

Limited English Proficient:

The SC definition of limited English proficient (LEP)/English language learner (ELL) is referenced to NCLB,[P.L. 107-110, Title IX, Part A, § 9101, (25)]:

“(25) LIMITED ENGLISH PROFICIENT. – The term ‘limited English proficient’, when used with respect to an individual, means an individual –

- (A) who is aged three through 21
- (B) who is enrolled or preparing to enroll in an elementary school or secondary school;
- (C)(i) who was not born in the United States or whose native language is a language other than English;
- (ii) (I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and
- (II) who comes from an environment where a language other than English has had a significant impact on the individual’s level of English language proficiency; or
- (iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
- (D) whose difficulty in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual –
 - (i) the ability to meet the State’s proficient level of achievement on State assessments described in Section III (b)(3);
 - (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or
 - (iii) the opportunity to participate fully in society.”

All LEP students participate in required statewide assessment with or without accommodations. There are no exemptions from state assessments for LEP students except as provided for within guidance from USED and the SC Accountability Workbook (SCAW).

LEP students will be included in the LEP subgroup for the purpose of accountability, as defined in the SCAW, until they score at the “met” level on the required statewide assessments and have scored at the “fluent level” on the state English language proficiency test for two consecutive years. As defined in the SCAW, students in their first year in U.S. schools are exempted from taking the statewide English language arts assessment as long as they take the state English language proficiency test. They must take the statewide math and science assessments; however, the score will not count for AYP, as reflected in the Deputy Superintendent for Accountability’s memo.

When students have met state requirements for English language proficiency in accordance with the SC Accountability Workbook ([SCAW](#)), they will be classified as “Exited” and will be monitored for two additional years by the LEA to confirm continued academic success.

Students who re-enter the program based on poor academic performance or a reading score on a state assessment that does not meet the standard are required to receive ELL services. Any students who have re-entered will not be classified as “Exited” until they have again met state requirements for English language proficiency in accordance with the SCAW.

The LEP/ELL definition includes students with a wide range of educational needs with respect to learning English for Speakers of Other Languages (ESOL). Examples include the following types of students:

- Children of recent immigrants who speak no English and who have had little or no formal training in written language,
- Children of immigrants who have had formal training in English during formal schooling, and
- United States-born children whose primary language is not English and/or who have had limited formal education through English language.

Language Minority Student

A language minority student is one whose first language or home language is other than English and may be limited English proficient.

1. LEA GUIDANCE FOR SERVING LIMITED-ENGLISH PROFICIENT STUDENTS

The SCDE has established the following requirements and best practices for programs and services for student who are English language learners:

1. Each LEA superintendent or designee should:
 - Develop and implement a comprehensive English Language Learners (ELL) Plan.
 - Identify and provide resources to serve language minority and English language learners.
 - Coordinate programs and services to language minority and ELLs and their parents at the local school level.
 - Report annually to the SCDE information concerning the identification, placement and educational progress of language minority and ELLs.
2. Each LEA shall report annually to the SCDE information relating to the number of students who are ELLs and services rendered.
3. Each LEA shall administer a Home Language Survey to every student at the time of enrollment and shall ensure that surveys are maintained in each individual student's permanent record.
4. Each LEA shall adopt, acquire, and administer a state-approved language proficiency test and shall provide appropriate and sufficient training for designated staff to administer the test to any and all students whose Home Language Survey indicates that a language other than English is their primary language. The IDEA Proficiency Test (IPT), the Language Assessment Scales (LAS), the Woodcock Muñoz Language Survey (WMLS), and the ELDA screener are the four state-approved language proficiency tests that may be used for diagnostic and placement purposes. (As other language assessments are adopted by the state, information will be disseminated to appropriate personnel in each LEA).
5. Each LEA should establish and implement a system such that each limited English proficient student has a student support team to analyze information gathered from the student enrollment process and English language proficiency assessment. The team should make decisions about the types of instructional and support services that are needed. At a minimum, information from the Home Language Survey, the language proficiency test, the student's home and educational background, and the student's content knowledge and skills as demonstrated in the classroom should be considered in decisions about programs and services to be provided.

6. Each LEA shall evaluate the effectiveness of their ESOL program using the English Language Development Assessment (ELDA) and statewide assessments. The LEA must determine if changes are needed in its program model(s) of instruction to ensure that ELL students make adequate progress as compared to all other students.
7. Each LEA shall ensure that language minority and ELLs have equal access to instructional, support, and extracurricular programs, services, and activities.
8. Each LEA should develop and implement an English language instruction education program that provides ELLs genuine and practical opportunities to develop English proficiency, and to learn and to demonstrate achievement of the state academic content standards that is expected of all students. The program should employ curricula, instructional materials, methodologies, and professional development based on scientifically based research on teaching immigrant children and youth who are identified as ELL.
9. Each LEA shall adopt appropriate evaluative procedures for measuring the progress of ELLs in school and shall monitor the progress of ELLs in English proficiency and acquisition of grade-level content standards. Multiple assessment measures, including teacher judgment, should be used to evaluate core content knowledge and skills in English comprehension, listening, speaking, writing, and reading. When an ELL is not making progress in school, the LEA shall ensure that appropriate modifications in the English language instruction educational program are made. The student support team should review progress periodically and revise the program as needed.
10. Each LEA shall follow the state program exit criteria so that a student is not maintained in an English language instruction education program longer than is necessary. Documentation should be retained for any eligible student whose parent declines or withdraws participation in the English language instruction education program. These students should be documented as "waiver" and will still be required to take the English proficiency tests until they score "fluent" and reach the criteria for exiting as all other LEP students must in accordance with the [SCAW](#). Additionally, waived students should be waived every year. Mainstream teachers of waived students must still provide appropriate accommodations for these LEP students. The progress in learning English and understanding of the core curriculum of waived students must be monitored. If the student is struggling, a parent conference should be held to include a discussion about the child's academic difficulties and the possible need to allow the student to receive direct ESOL services in order to assist their child with developing greater English proficiency.

11. Each LEA shall monitor the English language and academic progress of each exited student for a minimum of two academic years. Students who demonstrate academic and/or social difficulties while being monitored shall be provided supplemental support and instruction and/or readmitted to an English language instruction education program.
12. Each LEA shall ensure that ELLs participate in the statewide assessment in accordance with current SCDE and federal policies and procedures.
13. Each LEA shall ensure that ELLs are not assigned to or excluded from special education programs because of their limited English language proficiency. Evaluation, placement, and notification to parents of students with special needs shall be conducted in accordance with current authorization of the Individuals with Disabilities Education Improvement Act of 2004 and its implementing regulations, and Section 504 of the Rehabilitation Act of 1973, and its implementing regulations.
14. Each LEA shall ensure that ELLs are not excluded categorically from programs for the academically gifted, from other specialized programs, or from student support services that are available to other students in the school.
15. Each LEA shall ensure that ELLs are educated in the least restrictive and least segregated manner possible based on the educational needs of the student. Students shall be included, to the extent possible and practicable, in all aspects of the regular school program that are available to other students.
16. Each LEA shall make reasonable, meaningful, and sufficient efforts to involve parents/guardians of students who are ELLs in the student's overall educational program. Notifications of LEA and school policies and procedures, school activities, academic and behavioral expectations, available alternative language and support services, and student academic progress shall be made to parents/guardians in a uniform format and, to the extent practicable, in a language that they can understand.
17. Each LEA must establish, implement, and communicate to language minority parents/guardians, community groups, and other interested parties reasonable, meaningful, and sufficient methods for them to express ideas and concerns regarding the provision of services to LEP students.
18. Each LEA shall report annually to its constituents the required information for ELLs by means of the Annual LEA Report Card.

19. Each LEA shall submit to the SCDE, upon request, certain data and other information to reflect participation and progress in all areas of the English language instruction educational program.

2. COMPREHENSIVE PLAN

Every LEA in South Carolina that receives Title III funds must develop and implement a comprehensive plan for serving students who are LEP and immigrant students, in accordance with Section 3116 of Title III of the No Child Left Behind Act of 2001. The plan should address each aspect of the LEA's program for all ESOL students, at all grade levels, and at all schools in the school system. It should contain sufficient detail and specificity so that each staff person can understand how the plan is to be implemented and should contain the procedural guidance and forms used to carry out responsibilities under the plan. LEAs not receiving Title III funds are encouraged to develop and implement a comprehensive plan.

SEC. 3116. LOCAL PLANS.

(a) **PLAN REQUIRED-** Each eligible entity desiring a subgrant from the State educational agency under section 3114 shall submit a plan to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require.

(b) **CONTENTS-** Each plan submitted under subsection (a) shall —

(1) describe the programs and activities proposed to be developed, implemented, and administered under the subgrant;

(2) describe how the eligible entity will use the subgrant funds to meet all annual measurable achievement objectives described in section 3122;

(3) describe how the eligible entity will hold elementary schools and secondary schools receiving funds under this subpart accountable for —

(A) meeting the annual measurable achievement objectives described in section 3122;

(B) making adequate yearly progress for limited English proficient children, as described in section 1111(b)(2)(B); and

(C) annually measuring the English proficiency of limited English proficient children, so that such children served by the programs carried out under this part develop proficiency in English while meeting State academic content and student academic achievement standards as required by section 1111(b)(1);

(4) describe how the eligible entity will promote parental and community participation in programs for limited English proficient children;

(5) contain an assurance that the eligible entity consulted with teachers, researchers, school administrators, and parents, and, if appropriate, with education-related community groups and nonprofit organizations, and institutions of higher education, in developing such plan; and

(6) describe how language instruction educational programs carried out under the subgrant will ensure that limited English proficient children being served by the programs develop English proficiency.

(c) **TEACHER ENGLISH FLUENCY-** Each eligible entity receiving a subgrant under section 3114 shall include in its plan a certification that all teachers in

any language instruction educational program for limited English proficient children that is, or will be, funded under this part are fluent in English and any other language used for instruction, including having written and oral communications skills.

(d) OTHER REQUIREMENTS FOR APPROVAL- Each local plan shall also contain assurances that —

(1) each local educational agency that is included in the eligible entity is complying with section 3302 prior to, and throughout, each school year;

(2) the eligible entity annually will assess the English proficiency of all children with limited English proficiency participating in programs funded under this part;

(3) the eligible entity has based its proposed plan on scientifically based research on teaching limited English proficient children;

(4) the eligible entity will ensure that the programs will enable children to speak, read, write, and comprehend the English language and meet challenging State academic content and student academic achievement standards; and

(5) the eligible entity is not in violation of any State law, including State constitutional law, regarding the education of limited English proficient children, consistent with sections 3126 and 3127.

Each LEA should establish a committee or work group that includes administrators, teachers (both English language instruction educational program teachers and regular classroom teachers), instructional assistants, school counselors, and others who work with the ELL population. The committee should include parents, students, and community representatives who work with these students and their families in other settings. By working with a group that includes these stakeholders, the LEA can receive valuable input from those whose support and efforts may be important to the success of the English language instruction educational program. Inclusive approaches in program design and development tend to promote overall community awareness and support. In addition, these individuals will be valuable resources during program improvement and evaluation activities.

Many factors affect the types of education programs that school systems may offer, including the number of students and the variety of languages they speak. Consequently, the SCDE allows school systems broad discretion concerning how to ensure equal educational opportunity for LEP students. The SCDE does not prescribe a specific intervention strategy or type of program that an LEA must adopt to serve ELLs. The law requires effective instruction that: (1) leads to the timely acquisition of proficiency in English and (2) provides teaching and learning opportunities so that each student can become proficient in the state's academic content and student academic achievement standards within the specified time frame that is expected for all students.

3. IDENTIFICATION OF LANGUAGE-MINORITY STUDENTS

A comprehensive enrollment procedure for language minority students facilitates their entry into the new school environment. It is vital to the orientation process to have school personnel who are experienced and are dedicated to meeting the needs of students from different cultures with different levels of English proficiency.

A language minority student is one whose first language is other than English. All language minority children must be allowed to enroll in school, regardless of their ability to produce a birth certificate, social security number(SSN), or immigration documentation. Children may not be excluded from school because they do not have an SSN or appropriate immunization documentation. The student should be enrolled in accordance with state policy and procedures. The Office of Homeland Security as of January 1, 2008, requires photo identification for both parents in order to receive a birth certificate for their child. Consequently, districts should develop alternative ways to document age, such as baptismal record, parental statement of their child's age, affidavit, etc.

A Home Language Survey must be completed for each student registering for enrollment in a SC public school. A Home Language Survey sample is included in Appendix G. It may be helpful to conduct an interview with the student and/or parents during the enrollment process. An example of such an interview is also included in Appendix G. The assistance of an interpreter may be required to complete the survey. The completed survey becomes part of the student's permanent record and should be available for review during compliance monitoring. The Home Language Survey should contain, at a minimum, the following questions:

- What is the first language the student learned to speak?
- What language does the student most often speak?
- What language is most often spoken in the student's home?

When all responses on the Home Language Survey indicate that English is the only language used by the student and by individuals in the home, the student is considered an English-only speaker.

Any student whose registration or Home Language Survey indicates a student's first language is other than English is a language minority student. If any response on the Home Language Survey indicates the use of a language other than English by the student or an individual in the home, then further information must be obtained to determine the student's English-language proficiency. Based on identification of a potential ELL through the Home Language Survey, new ELLs must be tested within thirty days of enrollment at the beginning of the school year, and within two weeks thereafter within the school year. ELDA scores, even from other ELDA states,

from last year's administration can be used for placement and parent notification in lieu of a screener if the child enrolls in school in the first 30 days of the start of school and the current ELDA scores are available before that time limit is exceeded.

However, the presence of a language other than English does not automatically signify that the student is not a competent and proficient speaker of English. Some students may actually prove to be bilingual after consultation with the parents while others might have a parent who speaks another language while the student speaks only English. It is important to use the Home Language Survey as a springboard for further discussion with the parents of anyone who has atypical answers on the survey even before an English placement test is administered.

Teacher Identification of Potential ESOL Students

There are some situations in which a student whose Home Language Survey indicates that English was their first language spoken demonstrates that English may not be their first language or that while the student may have learned English while acquiring another language, the teacher determines that the student is not English proficient and could benefit from ESOL services. A mainstream teacher should base this determination on classroom observations, parent conferences, or other data collected. In such a case a mainstream teacher may recommend that the student be evaluated for possible participation in ESOL services. Each case should be evaluated on an individual basis and with input from all appropriate parties (stakeholders).

4. ASSESSMENT OF LANGUAGE PROFICIENCY

Assessments of English language proficiency must be conducted to accomplish two purposes:

1. To determine the student's level of English proficiency.
2. To make appropriate instructional and program placement decisions.

Annual English proficiency test (ELDA) scores are used at the beginning of each school year to determine placement and services for returning students and can be used during the 30 day window at the beginning of school for new students to the district if their ELDA scores from the previous Spring administration can be obtained in time from their previous district.

In addition, students should receive ongoing informal assessment of their progress. Each student's English proficiency will be assessed annually through the state assessment program.

A school system may choose to administer one of the following language proficiency assessments for placement and diagnostic purposes:

- IDEA Proficiency Test (IPT);
- Language Assessment Scales (LAS);
- Woodcock-Muñoz Language Survey (WÑLS); or
- ELDA Initial Screener.

We are recommending that 4K students be coded. All of the ESOL and ELLI fields ordinarily required must be completed if 4k ELLs are coded. The 4k year will count as the first year in the ESOL Cohort. This does not mean that you must use an "official" screener to code 4K students; an ESOL teacher's conversation with the student will suffice for determining a student's relative level of English proficiency. We have determined this new guidance is necessary to make sure that 4K students are identified as LEP and don't inadvertently get coded as English speakers once they move to 5K. The 4K year will count as one year of learning English in the ESOL Cohort area.

Title III, Part A, Subpart 1, (Section 3122(a)(3)(A) of NCLB requires that the state's student assessment system include an annual, valid, and reliable assessment of English proficiency. In South Carolina the approved test used for this purpose is the ELDA. The state also requires this test to be administered to ALL LEP students regardless of whether the district receives Title III funding or not. The state and each Title III LEA is required, at a minimum, to demonstrate: (1) annual increases in the number or percentage of children making progress in learning English and (2) annual increases in the number or percentage of children attaining English proficiency by the end of each school year and (3) adequate yearly progress (AYP) for limited English proficient children as described in Title I law, Section 1111(b)(2)(B). Meeting AYP targets for LEP students is required of ALL districts and schools, not just for Title III districts.

5. PROGRAM PLACEMENT

The ultimate goal for students who are English language learners is that they be able to achieve the state's academic content and student academic achievement standards, as demonstrated by proficiency on the state's required student assessments, and that they graduate from high school with a regular state issued diploma. They should, therefore, be placed in the grade that is age appropriate. Retaining or placing an LEP student in a lower grade is not in compliance with state guidelines.

One way to help ensure that students are placed properly is to convene a student support team or ELL Committee. The ELL Committee is a school committee responsible for guiding and monitoring the placement, services, and assessment of students who are ELLs. The ELL Committee may be comprised of content area or general classroom teachers of ELLs, assessment specialists, school administrators, guidance counselors, ESOL staff, and member-at-large (e.g., parents, student support personnel, community representatives, central office administrators, high school students, speech

language therapists, and school psychologists). A school may choose to use an existing school based student support committee as the ELL Committee.

The duties of the ELL Committee may include:

- full consideration of each student's language background before placement in an English language instruction educational program;
- establishment and implementation of systematic procedures and safeguards related to appropriateness of identification, placement, assessment, and instructional and support programs.
- rules for transcript evaluation of foreign secondary credits for ELLs entering high school.
- recommendations to school decision-makers on professional development topics for staff and workshops and parental involvement seminars to further student success; and
- review of students' progress in language acquisition and academic achievement on at least an annual basis.
- evaluation of the effectiveness of the instruction the school's ELLs received and modification of such instruction if expected outcomes were not met.

All language-minority children should be placed in their age-appropriate grade level. A student with little or no knowledge of English should be placed immediately in an English language instruction educational program and/or provided appropriate accommodation and assistance in their mainstream classroom. The goal is to integrate the student into regular programs while providing an intense language acquisition program. The student should participate with age group peers in all school activities.

Prior to placing a student in an English language instruction educational program, the LEA must ensure that the school notifies parents of their rights, responsibilities, and opportunities for participation in the program.

Parent notifications must be communicated in a language and/or manner that the parents can understand. Parents are not required to respond affirmatively to the notification in order for the student to participate in the LEA's English language instruction educational program. However, upon receipt of written instructions from the parent declining participation (waiver), an LEA must withdraw the student from a formal English language instruction educational program. The LEA is still obligated to provide appropriate, informal strategies to ensure that the student's English language and academic needs are met. Additionally, waived students are required to be assessed annually for English proficiency using the ELDA.

The following factors should be considered when placing students in appropriate ELL programs:

- the extent and continuity of previous education,
- the level and degree of English-language proficiency,

- the level and degree of proficiency of the student in his/her home language; and
- the degree of home support for second-language learning.

K-1 students and students with ELDA scores of 3, 4, and 5 may not need to be served by an ESOL teacher/paraprofessional if they are performing well in their regular education classrooms. They should only be pulled out of mainstream classroom instruction if they are receiving more instruction in English than what they would receive in their mainstream classroom. Ongoing formative assessment in addition to summative assessment should be done in mainstream and ESOL classrooms to better tailor each student's ESOL and regular education program to their individual educational needs.

It is important to remember that all ELLs do not need to be served in the same way, e.g. volunteers, paraprofessionals, etc. can provide additional support as appropriate for some ELLs.

In order to ensure program effectiveness, maintaining appropriate class size should be taken into consideration when making staffing and placement decisions. The ESOL teacher per pupil ratio for pull-out or sheltered classes should not exceed 1:15 unless a paraprofessional is also assisting in the classroom. In that case, a ratio not to exceed 2:30 is recommended, where the paraprofessional counts as the second instructor. A 1:60 overall ESOL teacher to student ratio is recommended when students who are monitored are counted along with those who are directly served. These numbers must be adjusted downward for factors such as the number and type of monitored students, travel time requirements for itinerant teachers, and any other significant considerations, including the level of English proficiency of students being served, when making such ESOL staffing decisions.

6. PARENTAL NOTIFICATION AND INVOLVEMENT

Many parents of limited-English proficient students speak little or no English and should be made welcome in the school setting. Communication is best accomplished with the help of an interpreter. All important school information sent to non-English speaking parents should be translated into a language that can be understood, to the extent practicable, or home-school contact should be made such that the parents are informed. This provision greatly improves the quality and outcome of the school-home working relationship.

The LEA should:

- evaluate educational programs annually to identify and eliminate barriers to meaningful involvement and understanding of parents who may be non-English or limited-English speaking;
- provide assistance if needed in the enrollment of a limited-English or non-English speaking student;

- provide an interpreter if needed for parent/teacher conferences;
- ensure, to the extent possible, that information related to school and parent programs, meetings, and other activities is provided in the parent's language;
- provide meaningful opportunities for parents of English language learners (ELLs) to participate in the education of their children, including providing school information in a language and form parents can understand; and
- include parents of ELLs, to the extent practicable and possible, in the development of LEA and school-parent involvement policy plans and Title I school-based plans.

Following is a list of factors that may impact the degree and extent of involvement by parents for ELLs:

- length of residence in the United States;
- English language proficiency;
- availability of support groups and bilingual staff;
- prior experiences of parents; and
- economic need of parents.

The LEA must ensure that appropriate notification is made to parents prior to placing a student in an English language instruction educational program. According to Title III, Part C, Section 3302(a), each LEA shall, "not later than thirty (30) days after the beginning of the school year, inform a parent or the parents of a limited-English proficient child identified for participation in, or participating in" an English language instruction educational program, about the following:

- the reasons for the identification of the student as limited-English proficient and the need for placement in an English language instruction educational program;
- the student's level of English proficiency; how such level was assessed; and the status of the student's academic achievement;
- how the method of program instruction to be used differs in content, instructional goals, and use of English from "regular" programs in the school;
- how the program will meet the educational strengths and needs of the student
- how the program will specifically help the student learn English and meet age-appropriate academic achievement standards for grade promotion and graduation;
- the specific exit requirements for the programs; the expected date of transition from the program into regular classrooms; and the expected date of graduation from high school, if appropriate; and
- if applicable, how the program meets objectives of the student's individualized education plan (IEP).

Specifically, the following information pertaining to parental rights must be provided in writing:

- the right of the parents to have their child immediately removed, upon their request, from the English language instruction educational program;
- the options that parents have to decline to enroll their child in an English language instruction educational program or to choose another program or method of instruction if another program or method is available; and
- the assistance that will be provided for parents in selecting from among various programs and methods of instruction if more than one program or method is offered by the LEA.

The LEA must ensure that separate notification is made to parents to notify parents of English Language Learners (ELLs) that the LEA has failed to meet Title III Annual Measurable Achievement Objectives (AMAO) for any fiscal year (Appendix K). According to Title III, Part C, Section 3302(b), "each LEA shall, separately inform a parent or the parents of a child identified for participating in such program, of such failure not later than thirty (30) days after such failure occurs."

Each LEA must implement "an effective means of outreach" so that parents of ELLS can:

- be involved in the education of their children; and
- be active participants in assisting their children to learn English, to achieve at high levels in core academic subjects, and to meet the same challenging state content and student achievement standards as all children are expected to meet.
- have an opportunity to express ideas and concerns regarding the ESOL programs in which their child participate.

If a student has not been identified for participation in an English language instruction educational program prior to the beginning of the school year, the LEA must carry out the parent notification requirements within two weeks of a student being placed in such a program.

7. STUDENT EVALUATION

On an annual basis, the LEA must ensure that each school evaluates and documents the progress of each LEP student's acquisition of English and their academic progress. Monitoring is necessary while students are in the English language instruction educational program as well as after they exit the program. Comprehensive and comparable data on all students are needed to evaluate the success of students in obtaining an effective and appropriate education. Ideally, maintaining these data in a computerized database will

facilitate monitoring. Data on current and former students should be maintained as part of a system that includes information on all students. This allows comparisons to be made between LEP, and native English speaking peers in mainstream programs.

School systems should maintain systematically the following information in individual student records for all students identified as LEP:

- assessment data (standardized tests taken, scores, and dates);
- academic data (courses taken, grades, attendance, promotion/retention);
- SASI components for ELLs;
- educational history;
- results of sight and hearing tests;
- physical conditions that may affect learning;
- classroom observations and anecdotal records by teachers; and
- enrollment history and criteria used for placement in special services (ESOL services, speech therapy, special education, gifted, other).

Please review the English Learner Program Assessment document in Appendix I for more complete guidance.

8. EQUAL ACCESS TO ENGLISH LANGUAGE INSTRUCTION EDUCATIONAL PROGRAMS AND SERVICES

The South Carolina Department of Education does not, from a statewide perspective, prescribe specific guidelines for determining the nature of programs designed for English language learners. The number of students may vary from only a few in some LEAs to several thousand in others. For this reason, decisions concerning the instructional program model must be made by each LEA.

ESOL is an instructional program that assists students in learning English. It addresses listening, speaking, reading, writing, content vocabulary, cultural awareness, and study skills through clearly articulated objectives regarding what is to be accomplished.

At the same time, academic content must be provided. Two effective instructional methods are content-based ESOL instruction provided by ESOL-certified teachers and sheltered instruction in content areas provided by highly qualified content-area teachers. Communication and collaboration between ESOL teachers and content-area teachers are essential regardless of program model.

Each school district may decide which scientifically based English language learner program model is best for its given circumstances. Any school district with one or more limited English proficient students must provide ESOL services for those students. The ESOL program must provide students with the conversational and academic English language skills necessary to function successfully in an English-speaking academic setting. If academic deficiencies exist, the LEA must provide additional support as needed to ensure that LEP students meet the same challenging state academic standards that all students are expected to meet.

Following is a list of scientifically research-based programs of instruction from which school systems may choose:

Content-Based ESOL Instruction

This approach to teaching English as a second language uses instructional materials, learning tasks, and classroom techniques from academic content areas as the vehicle for developing language, content, and cognitive and study skills. English is used as the medium of instruction, and an ESOL-certified teacher delivers instruction in content-based ESOL. This approach helps ELLs at a beginning and intermediate level to learn academic content while they are learning English.

ESOL Pullout

In this approach, a student is pulled out of the mainstream classroom for special instruction in ESOL. This instruction should ideally reinforce the same standards and content that ESOL students are learning in their mainstream classrooms. ESOL-certified teachers, or those working toward certification should provide the pullout instruction.

Structured Immersion with ESOL Methodologies

Structured immersion is designed to teach English to LEP students via academic content instruction in English by the mainstream teacher. The goal of such a program is the development of English language and literacy. Immersion programs develop the student's English language skills through use of ESOL methodologies in delivering content area instruction in English. No separate ESOL component is included. Students may address the teacher in either their first language or English, but teachers respond in English. Content area instruction is based on the notion of comprehensible input, in which the teacher uses only the English vocabulary and structures that can be understood by the students and uses ample visuals to develop additional English vocabulary and structures.

Sheltered Instruction

This approach is widely used for teaching language and content to ELLs in the mainstream classroom, particularly as schools prepare students to achieve high academic standards. In Sheltered Instruction, academic subjects (e.g.,

science, social studies, mathematics) are taught using English as the medium of instruction. Sheltered Instruction helps ELLs acquire proficiency in English while at the same time achieve in content areas. Sheltered Instruction differs from ESOL and content-based ESOL in that English is not taught as a language with a focus on learning language. Rather, content knowledge and skills are the primary goals. In the sheltered classroom, highly qualified content-area teachers use simplified language, physical activities, visual aids, and the environment to teach vocabulary for concept development in mathematics, science, social studies, and other subjects. ESOL certification is also recommended for mainstream teachers providing Sheltered Instruction.

Newcomer Program

A Newcomer Program addresses the specific needs of recent immigrant students, most often at the middle and high school levels, especially those with limited or interrupted schooling in their home countries. Major goals of newcomer programs are to acquire beginning English language skills along with core academic skills and to acculturate the student to the United States school system. Newcomer programs should be of short duration (no more than six months) and should mainstream students for a portion of the day.

Inclusion

In the inclusion model, LEP students are instructed in a conventional elementary, middle, or high school classroom where they are taught content using ESOL strategies by a subject area certificated teacher who has also completed appropriate ESOL training. Work assigned must be appropriately modified based on the English proficiency level of the student and grades must be given on the accommodated work.

Summary

Depending on the number of ELLs in an LEA, these programs may be implemented in various ways to best meet the needs of students. Whatever program models are selected, instruction in English language instructional programs must be provided by qualified and appropriately trained teachers. In middle or secondary settings, an ELL may receive instruction during a regular class period and receive credit for the course. Services by paraprofessionals must be provided under the supervision of a certified teacher.

All teachers are language teachers. Everyone is a language learner throughout his or her life. When a child enters a mainstream or regular education class, he or she may need language development and/or other types of temporary instructional modifications or accommodations. As the ELL attains fluency in English, fewer variations or accommodations in classroom activities will be necessary.

9. EQUAL ACCESS TO APPROPRIATE CATEGORICAL AND OTHER PROGRAMS

LEAs receiving federal financial assistance cannot, on the basis of national origin, do the following:

- provide services, financial aid, or other benefits that are different or provide them in a different manner;
- restrict an individual's enjoyment of an advantage or privilege enjoyed by others;
- deny an individual the right to participate in federally assisted programs; or
- defeat or substantially impair the objectives of federally assisted programs

These regulatory requirements from Title VI of the Civil Rights Act of 1964 have been interpreted to prohibit denial of equal access to education because of a student's limited proficiency in English.

Title I, Part A, Basic Programs

LEAs are required by federal law to provide appropriate language acquisition services for students who are LEP. The language acquisition services are considered an integral part of a free and appropriate public education for all students. Title I, Part A, funds may be used to supplement state and locally funded services, as well as provide other direct services to ELL students who are failing or are at risk of failing to meet the state's academic standards.

LEP students are eligible for programs and services provided by Title I, Part A, on the same basis as non-LEP students. In schools operating Title I schoolwide programs, all children, including LEP, are intended to benefit from the program, and the needs of all students are to be taken into account in the program design. In Title I targeted assistance schools, LEPs are eligible and may be selected for services on the same basis as other children. The LEA is not required to demonstrate that the needs of LEP students stem from educational deprivation or solely from their limited English proficiency.

Title I, Part C, Migrant Education Program

A student may be eligible for services under Title I, Part C, the Migrant Education Program (MEP), if he/she has traveled with a parent or guardian across school district boundaries to obtain temporary or seasonal work in agriculture or fishing. Migrant funds may be used to support and supplement ESOL services, as well as provide direct services to migrant students who are LEP. Migrant education services do not replace the need or requirement for

an English language instruction educational program, and Title I, Part C, will not be the only source of funds used to provide the English language instruction educational programs and/or services.

The Migrant Education Program is supplemental to the basic, regular education program and addresses needs that may be attributed to the migratory status of the student's family. All migrant students are not language minority, nor are all language minority students migrant.

Education of Homeless Children and Youth

Title X, the Program for the Education of Homeless Children and Youth, promotes access to public schools for homeless children and youth. Local education agencies must ensure that barriers to enrollment and in-school success for homeless students are eliminated. Barriers may include requirements for residency, guardianship, school records, immunization records, and transportation, among others.

A student who is LEP and also meets the federal definition of "homeless" is eligible to receive services provided through the Homeless Education Program as are other children who meet the federal definition.

Other Programs, Services, and Facilities

Language minority students must have access to instructional programs and related services for special populations in the LEA. Such programs include, but are not limited to, pre-school programs, career/technical programs, special education programs, and extracurricular activities. All student support programs and services and extracurricular activities must be available to LEP students on the same basis that they are available to other students in a school or school system. Similarly, each LEA must ensure that LEP students have access to comparable instructional materials, facilities, and other resources as other students.

The education of ELL students with disabilities raises several concerns about the legal requirements of LEAs. Among the concerns are identification, eligibility, and service provision for LEP students suspected of having a disability. Special education programs and services must be provided in accordance with the Individuals with Disabilities Education Improvement Act of 2004 (IDEA '04) and Section 504 regulations. All LEAs are required to include a description for communicating with non-English speaking students/parents in their Special Education Plan. Each LEA should develop a contingent plan regardless of whether any non-English speaking students are currently enrolled. The plan should describe how the LEA will secure the services of someone to administer a test or other evaluation and how the person will communicate with the child/parent.

All students with disabilities are guaranteed the right to a free, appropriate public education; an individualized education program with related services,

if needed, that meets their specific needs; due process; education in the least restrictive environment; tests that are not culturally discriminatory; and a multidisciplinary assessment. IDEA 2004 and 504 regulations require that state and local education agencies ensure that the students are assessed in all areas related to the suspected disability. The materials and procedures used to assess an LEP student must be selected and administered to ensure that they measure the extent to which the student has a disability and needs special education services, rather than measuring the student's English language skills. The LEP student with disabilities has a right to the same individualized special education services as other students with disabilities. Additionally, they must be provided alternative language services that are an integral part of their individualized education program (IEP).

The IEP for a LEP student with a disability must include all of the components as listed in the South Carolina Administrative Code. The IEP team shall consider the language needs of the student as those needs relate to the student's IEP. ESOL teachers, and/or district ESOL Coordinators should be part of the initial IEP process to ensure these language considerations are taken into account. Parent participation is a required part of the special education process; and to ensure active participation, accommodations must be made at all meetings and in written communications for the non-English speaking parent.

Gifted and Talented Education

The SCDE and the U.S. Department of Education, Office for Civil Rights (OCR), signed the Title VI Resolution Agreement #04-96-5021 on August 29, 1997, focusing on underrepresented populations in gifted programs in South Carolina.

In the agreement, the SCDE committed to a variety of actions related to screening/referral criteria and procedures, evaluation processes and eligibility criteria, program oversight, and technical assistance. The SCDE also agreed to provide monitoring/progress reports to OCR regarding implementation of the agreement. The first monitoring report was made on December 1, 1998. In an on-going effort to insure that ELLs are considered equally with all other children for this program, the Resolution Agreement encourages the use of alternative, valid test instruments in determining eligibility of minority students who exhibit characteristics of giftedness.

10. PROGRAM CURRICULUM

LEAs should incorporate into the ESOL program curriculum the ESOL standards for listening, speaking, reading, and writing, and the cultural concepts students need to succeed in regular classrooms. Curricula and instructional materials used in the English language instruction educational program must be aligned with the South Carolina Academic Standards and must be based on scientifically based research demonstrating the

effectiveness of the programs in increasing English proficiency and student academic achievement in the core academic subjects. [NCLB, Title III, Part A, Subpart 1, Section 3115(c)]

ESOL Program Methodologies

Different ELL program designs require the teacher to use a variety of approaches in organizing the classroom, designing a curriculum, and presenting lessons. There are several basic elements underlying all good language instruction:

- Versatility and flexibility,
- Interactive lessons with hands-on activities and cooperative learning,
- Encouragement and support of the mainstream or regular curriculum,
- Opportunities for all students to feel successful by providing appropriate modifications and accommodations for the needs of student's at different levels of ability, and
- Integration of language skills, thinking skills, and content knowledge.

11. GRADES AND GRADING SYSTEMS

Traditional procedures for assigning grades to students may not be appropriate for English language learners. The same methods and criteria applied to their English-speaking age and grade peers cannot always be used to assess students who lack English language proficiency. Teachers should be encouraged to maintain high expectations for student learning and should accommodate and adapt lessons and assignments so that ELLs can progress.

Likewise, assessments should be modified so that students can demonstrate their knowledge and skills. LEAs should describe their grading policies and procedures in local ELL plans and should provide training for appropriate personnel so that the policies and procedures are implemented consistently and fairly.

A student may not be assigned a failing grade in a content area or be retained at grade level on the basis of lack of English language proficiency. The key to appropriate grading of ELLs is appropriate instructional accommodations. Even non-English proficient students can learn content while acquiring English. If content teachers are unsure how to accommodate ELLs, they should seek in-service professional development.

It may be more appropriate for beginning ELLs to receive alternate progress monitoring grades such as S for Satisfactory, I for Improving, or N for Needs Improvement. Alternative assessment is a preferred option for LEP students. Implementation of alternative assessments includes, but is not limited to, asking students to prepare portfolios, present projects or oral reports, make lists or rubrics and other products that express what students have learned.

Students in grades nine through twelve must be given the opportunity to earn credits toward graduation. Students should be given grades on work done with modifications and accommodations. Teachers must follow these guidelines:

- ELLs must receive accommodation of content work when needed.
- Student grades are based on accommodated work.
- ELLs must not be failed on the basis of lack of English language proficiency.

12. STATE-MANDATED ASSESSMENTS

The South Carolina Education Accountability Act has set high standards for all students and holds schools and LEAs accountable for reaching those standards. The SCDE requires participation of all students in the South Carolina Student Assessment Program. Requirements and guidelines for the state's assessment system are distributed regularly, and training is provided at least annually to LEA test coordinators. The SCDE periodically provides update training and print communications to LEA superintendents, test coordinators, and federal programs coordinators. Please retain the correspondence for future reference.

Administration of all student assessments shall be according to established guidelines and procedures. The current policy is included in the Test Administration Manuals for each state test. States, LEAs, and schools must assess **ALL** public school students regardless of whether a student will be included for reporting or accountability purposes and regardless of the amount of time the student has been enrolled in the state, LEA, or school as provided for within the SCAW or the most recent correspondence from the SCDE.

Assessment results for each LEP student who participates in the state's assessment system, under standard conditions or with approved accommodations, will be included in the calculations and determinations for academic accountability at the LEA and school levels. The SCDE will establish annual measurable achievement objectives for ELLs and for students' development and attainment of English proficiency while meeting challenging state academic content and student academic achievement standards as required by Title I, Section 1111(b)(1). These measurable objectives will include the definition of Adequate Yearly Progress (AYP) for LEP students.

Each school and LEA will be held accountable for the following:

- Annual increases in the number or percentage of students making progress in learning English,
- Annual increases in the number or percentage of students attaining English proficiency by the end of each school year,

- AYP, as defined by the state, for LEP students consistent with Title I, Section 1111(b)(7), and
- The percentage of LEP students who participate in the state's student assessment program (Title I, Section 1111(b)(2)(I)(ii) states that not less than 95 percent of each school's LEP students are required to take the state's assessments).

All discrepancies between the number of students enrolled and the number of students tested must be documented. Title I, Section 1111(b)(7), requires LEAs to annually assess the English language proficiency of each LEP student. Students must achieve annual measurable achievement objective targets for their English language acquisition based on the state-adopted English language development assessment. According to Title III, Part A, Section 3122(b), LEAs that do not meet their AMAO for two consecutive years are required to develop an improvement plan (Appendix L) which will ensure that the LEA meets AMAO in the future. For LEAs that do not meet AMAO for four consecutive years, the state educational agency shall

- require such entity to modify the entity's curriculum, program, and method of instruction; or
- make a determination whether the entity shall continue to receive funds related to the entity's failure to meet such objectives, and require such entity to replace educational personnel relevant to the entity's failure to meet such objectives.

13. STAFF DEVELOPMENT FOR ALL SCHOOL ADMINISTRATORS AND SCHOOL PERSONNEL

A strong professional development component and appropriate instructional materials provide solid support for high standards for all students. Professional development takes several forms: pre-service education for teacher candidates, in-service education for new and veteran teachers, ongoing staff development support that features first language development and second language acquisition, awareness of issues related to the education and success of LEP students, and instructional and support strategies for modifying instruction in the content areas.

High standards for the education of LEP students cannot exist without high standards for professional development. To accomplish this, English language instruction educational program goals and activities should be included in each school's professional development plan and in the LEA Professional Development Plan. Professional development should be based on the principles of effective staff development and be supported by current research. As always, professional development should be sustained, ongoing, and specific, rather than one-shot, episodic in-service sessions. Section

3115(c)(2) of Title III, Part A, states that each LEA shall provide high-quality professional development to classroom teachers, including teachers in mainstream classrooms, principals, administrators, and other school or community based personnel. Professional development activities should be:

- designed to improve the instruction and assessment of LEP students;
- designed to enhance the ability of teachers to understand and use curricula, assessment measures, and instruction strategies for LEP students;
- based on scientifically based research demonstrating the effectiveness of the professional development in increasing students' English proficiency or substantially increasing the content knowledge, teaching knowledge, and teaching skills; and
- of sufficient intensity and duration to have a positive and lasting impact on the teachers' performance in the classroom.

While topics for professional development should be specific to curricula and methodologies and should be identified in response to specific staff needs, the following list represents common identified topics to enhance services to LEP students:

- Identification of LEP students;
- Cross-cultural issues in the identification and placement of LEP students;
- Issues in conducting a thorough language assessment;
- Administering and scoring language proficiency tests;
- Establishing and implementing an effective ESOL Committee;
- Encouraging parent and family involvement in school;
- Curriculum-based assessment;
- Procedures for communicating with parents of LEP students;
- Building strong assessment committees;
- Student observation techniques;
- Non-discriminatory assessment;
- Effective instructional practices for LEP students;
- Sheltered English instruction;
- Initial instruction for newcomers;
- The identification and assessment of LEP students with learning difficulties;
- Communication and coordination between ESOL and content-area teachers; and
- Ensuring educational equity for all students.

A list of resources for providing professional development is in Appendix E.

14. ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL) PERSONNEL

District-Level ESOL Coordinator

It is essential that someone from the local LEA administrative office be responsible for coordinating ESOL programs and services. This individual preferably is a specialist in ESOL, but may be a generalist if the extent of the ESOL program is small in comparison to the regular education program. Responsibilities of this person, at a minimum, are to ensure that students are identified and that an appropriate and effective instructional program is provided. All school personnel should know who has been designated as the LEA's ESOL Coordinator.

The student identification process always involves the use of a Home Language Survey regardless of the number of LEP students enrolled in the LEA and at individual schools. The answers on this survey then trigger the required English Proficiency screening in accordance with the SCAW and parent notification of services (see Part 3 of this document for more information).

The ESOL Coordinator is a liaison for school personnel, parents, and the community. In LEAs with smaller numbers of LEP students, the district ESOL Coordinator must work diligently with teachers and other administrators to assure that LEP students are identified and served.

The ESOL Coordinator is responsible for ensuring that the ELL data collection elements are correct. They must also provide additional information as necessary to allow for reporting to the USED. The ESOL Coordinator also provides training to LEA administrative staff and to personnel at individual schools on registration requirements for LEP students. Meeting the requirements for local school entry may be difficult for some language minority families. The LEA's enrollment policies and procedures should include appropriate mechanisms for facilitating the entry of students who may not have a birth certificate, social security number, or immunization record.

ESOL Teacher

ESOL teachers should be certified to teach ESOL or be willing to obtain the certificate. They should have the ability to communicate effectively with students and parents. A sincere interest in and willingness to work with LEP students and help them achieve success is crucial. Knowledge of how students learn to read, how to diagnose reading difficulties, and appropriate interventions for struggling readers is essential. Additionally, ESOL instructional personnel should have the following qualifications:

- Full English Proficiency (reading, writing, listening, speaking, and comprehension);
- A thorough knowledge of the theory and practice of English as a Second Language;
- A genuine concern for the education of students from different linguistic and cultural backgrounds;
- Awareness of the various cultures of LEP students;
- An understanding of the basic concepts regarding the nature of language and the theories of first and second language acquisition;
- The ability to teach students how to interact successfully in a cross-cultural setting and how to maintain pride in their native culture;
- An understanding of different cultures and the effect that those cultures have on students' learning styles and on their general level of development and socialization;
- The ability to use various teaching techniques chosen according to the needs of the students and demands of the subject matter; and
- The ability to facilitate contacts and interaction between the student's home and the school.
- The willingness to work closely with mainstream teachers of ELLs so that regular education teachers receive the English proficiency information they must have for the ELLs in their classrooms, are aware of appropriate accommodations, and learn about the best teaching methodologies to use with their ELLs. The ESOL teacher should support the academic standards being taught in mainstream classrooms.

Other ESOL Personnel

- Paraprofessionals
- Parent Liaison
- Volunteers may be used effectively in both large and small ESOL programs. They should at all times work under the direct supervision of a certified teacher. They should know and understand the school's ESOL plan and English language instruction educational programs, and they should receive appropriate training to conduct tasks assigned to them.

LEAs with large language populations frequently find it necessary to secure the services of bilingual teachers, tutors, teaching assistants, psychologists, counselors, principals, and social workers. It is recommended that school districts prepare a list of volunteers and community resource persons who are fluent in English and are available on an "as needed" basis for the language groups represented in the school population. These bilingual people should use languages other than English sparingly with students. The major use of the other languages should be to facilitate communication with parents who don't speak English.

Translators

Translators and interpreters should be qualified and should clearly understand their role. Translators of official documents and interpreters for conferences should be carefully selected and used judiciously. This is important, particularly when a highly technical level of language may be needed and confidential information may be shared. Other students should not be used for translation or interpreting except to provide a general welcome, for example. Matters of confidentiality and the difficulty and stress of translation preclude students from handling this important responsibility. School districts should have a plan in place to handle emergency needs for translation. Volunteer translators should be evaluated for the effectiveness of their communications with non-English speaking parents. This evaluation can be based on observational check lists, initial supervision of translations by previously approved translators, or by other methods deemed appropriate by the LEA.

15. TEACHER CERTIFICATION STANDARDS AND TRAINING

ESOL teacher certification is at the fifth-year level. Initial certification in another area is required. Requirements for admission to the program of studies include at least baccalaureate-level certification in a teaching field. The South Carolina State Board of Education has standards for the approval of ESOL teacher education programs at the graduate level, and persons who complete approved ESOL programs earn the ESOL Add-On Certificate.

ESOL teachers of Kindergarten through twelfth grades are appropriately certified with

- a. Regular Elementary, Middle, or High School Certification
- b. ESOL Certification or working toward certification using a completion schedule developed by the LEA

All non-certified personnel working in an ESOL program must work under the supervision of a certified teacher. Instructional paraprofessionals are not to be given direct responsibility for teaching and/or supervising students. These paraprofessionals must meet the "highly qualified" standards in Title I law (Sec. 1119, c.)

Any core academic subject teacher and/or instructional paraprofessional who works in a program supported by funds under Title I, Part A, must meet the qualifications prescribed in No Child Left Behind Act of 2001, (NCLB) Title I, Part A, Section 119. The "highly qualified" teacher requirements in Title I, Part A, Section 1119 (a-g) do not apply to an appropriately state-certified teacher whose assignment is solely to teach English language acquisition.

Any teacher who has responsibility for core academic subject instruction for any portion of the school day must meet the NCLB highly qualified teacher

requirements through one or more options described in the South Carolina Model for Identifying Highly Qualified Teachers (latest date).

16. LEA PROGRAM REVIEW

All school districts in the state have the responsibility of providing limited English proficient (LEP) students with an effective English language instruction educational program. During formal on-site monitoring visits, all federal programs, including programs for LEP students, are monitored for compliance with state and federal regulations.

The Title III monitoring review items are included in Appendix H. The SCDE Title III office conducts on-site Title III monitoring visits of district ESOL programs approximately once every 3 years and provides technical assistance as needed.

The SCDE staff will also monitor any LEA that is named in an LEP-related, formal complaint that is made directly to the SCDE or referred to the SCDE through the U.S. Department of Education, Office for Civil Rights. Each LEA must have procedures in place which provide opportunity for individuals with concerns about Title VI civil rights compliance issues for LEP students to file a complaint.

All school districts are responsible for evaluating the effectiveness of their ESOL program. Districts should use appropriate portions of the English Learner Program Assessment (ELPA) Appendix I, data from ELDA, PACT/PASS, HSAP, MAP, other assessments, and other data collected at the district level and school level by program administrators, teachers, principals, etc. to evaluate program effectiveness. Data should be appropriately disaggregated in order to make it a reliable source of information to evaluate program effectiveness. On-going formative and summative assessment should be conducted by ESOL and mainstream teachers to better tailor ESOL and regular education programming to the individual needs of ELLs. LEAs should be specific in determining how data collected will be utilized to evaluate the effectiveness of ESOL programming, make decisions about future ESOL programs, and used to address/fix any areas the program evaluation identifies as not being effective.

After a student is exited from the English language instruction educational program, a follow-up review should be made and documented within the first ten days of school. The purpose of the review is to verify that the student can function academically and socially in the new setting. Periodic monitoring should continue for two years. At the end of each progress-reporting period, a designated staff person should contact teachers in the student's regular classes to:

- find out if the student is adjusting and succeeding academically;

- verify that the student is sustaining the criteria used to exit from the English language instruction educational program; and
- identify academic or other needs.

Progress monitoring may include:

- review of grades;
- review of formal and informal student assessment results;
- review of student work samples;
- interviews with the student; and
- interviews with the student's parent(s) or guardian(s).

LEAs should also evaluate longitudinal data that compares the academic progress of those who have exited the English language instruction educational program, with that of other English-proficient students.

An LEA whose program is not demonstrably effective in meeting the needs of English language learners should modify its program in a timely manner. The SCDE does not prescribe a formal program evaluation process for ESOL programs, but will periodically provide related training and technical assistance to LEAs. The ultimate test of effectiveness of the English language instruction educational program is student achievement of English language proficiency and proficiency on grade-level student academic content standards.

Please use relevant portions of the English Learner Program Assessment (ELPA), located in Appendix I, to perform this evaluation. Relevant parts of the evaluation should be determined by LEA data analysis capability, number of LEP students, and other considerations.

APPENDICES

Appendix A Equal Education Opportunity and Non-Discrimination Statement

Appendix B Enrollment and Services for Limited English Proficient Students (LEP) Letter from Dr. Rex
<http://ed.sc.gov/agency/Accountability/Federal-and-State-Accountability/old/fp/JimRexMemo.LEP-LMC.doc>

Appendix C English for Speakers of Other Languages (ESOL) Policy Issues

Appendix D NonDiscrimination/Equal Opportunity Policy

Appendix E First Year Exemption for Recently Arrived Limited English Proficient (LEP) Students
<http://www.ed.gov/policy/elsec/guid/lepguidance.doc>.

Appendix F Procedures for ESOL Students who also have disabilities
<http://www.ed.sc.gov/agency/offices/fp/documents/ESOLSpecialEd.doc>

Appendix G Title IX Excerpt from 9101
<http://www.ed.gov/policy/elsec/leg/esea02/pg107.html>

Appendix H Resources

Appendix I Home Language Survey Sample

Appendix J Title III Monitoring Instrument

Appendix K English Learner Program Assessment (ELPA)

Appendix L English Language Learner Court Rulings
Lau vs. Nichols
<http://www.ncela.gwu.edu/faqs/view/6>

Plyler vs. Doe

<http://www.americanpatrol.com/REFERENCE/PlylerVDoeSummary.html>

Appendix M Sample AMAO Parent Notification Letter

Appendix N Title III/LEP District Improvement Plan

Appendix O Title III/LEP District Corrective Action Plan

APPENDIX A

**EQUAL EDUCATION OPPORTUNITY
AND NON-DISCRIMINATION STATEMENT**

It is the policy of the South Carolina State Board of Education and the South Carolina State Department of Education that no student will be excluded from participation in, be denied the benefit of, or be subject to discrimination in any program or activity on the basis of sex, race, color, creed religion, belief, national origin, ethnic group, immigrant status, limited English proficiency, or disability.

APPENDIX B

ENROLLMENT AND SERVICES FOR LIMITED ENGLISH PROFICIENT (LEP) STUDENTS LETTER FROM DR. REX

MEMORANDUM

MEMORANDUM

TO: District Superintendents and Principals

FROM: Jim Rex
State Superintendent of Education

DATE: September 30, 2009

RE: Enrollment and Services for Limited English Proficient (LEP) Students

The organizing principle of public education is that all children have the opportunity to participate and achieve. While demographic changes have presented the educational community with some challenges, the majority response of the educational community within our state has been positive and supportive of opportunity for all children.

Recently, however, public concern has been expressed relative to enrollment policies and procedures that may negatively impact the enrollment and services to children owing to immigrant status or English-speaking status. All districts should reflect, through Board-approved policy, a non-discrimination policy for enrollment that is in compliance with Plyler v. Doe (1982), Title VI of the Civil Rights Act (1964), and Section 59-63-40 of the South Carolina Code of Laws (please see the attached South Carolina School Board Association memo).

In order to insure that parents and students are treated fairly in our schools, the South Carolina Department of Education (SCDE) has a policy allowing for parents to resolve problems they or their children encounter at school by contacting the SCDE's Ombudsman, Wanda Davis, at wdavis@ed.sc.gov or 803-734-8485. Please make sure that parents of all students, including LEP students, know about this avenue for escalating complaints if they are not satisfied with local remedies regarding their children's access to educational programs or facilities.

To help better serve all children, please review the following information relative to enrollment and service:

District Superintendents and Principals

Page 2

September 27, 2007

- The state only requires two documents as a prerequisite to the enrollment of a child in a South Carolina public school. The Department of Health and Environmental Control (DHEC) immunization form is required of all children; however, DHEC allows a thirty-day waiver for students to present records or begin immunizations. A birth certificate or other proof of age, as determined by the school district, is required for the first-time enrollment for children entering kindergarten or first grade. In addition, your district may require written proof of residency. A district may not deny a student enrollment due to the lack of proof of immigration status, and a district should not request that information of the parent. Additionally, Social Security Cards or numbers are not required, nor must parents be required to present South Carolina drivers' licenses or other photo IDs for access to the main office in order to enroll their children in school.
- A home language survey must be administered to all students. Based on the information in the survey, schools must give a standardized language assessment to potential LEP and migrant students to determine needs and provide alternative language program services.
- Initial grade placement should be with same-age classmates. Classroom teachers should modify instruction and assignments to meet the academic and language needs of LEP students. Grades should reflect these modifications.
- An LEP/migrant student should be advanced along with age-level peers. Nonadvancement must be documented with evidence that indicates the determining factors are other than English language proficiency. All LEP and migrant students are eligible to participate in all age-appropriate school programs and to receive all available services.
- Once students have exited alternative language services, they are monitored for at least two academic years. Alternative language program services may be reestablished if necessary.

For additional information on any of these issues, please contact Catherine Neff, Title III, at 803-734-2880 or cneff@ed.sc.gov or Betty Black, Migrant Program, at 803-734-8219 or bblack@ed.sc.gov.

JR/cn

cc: Nancy W. Busbee, PhD, Director, Office of Federal and State
Accountability
ESOL Coordinators

APPENDIX C

Dr. Paul Krohne
Executive Director

Executive Committee

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English for Speakers of Other Languages (ESOL) - Policy issues

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color or national origin in programs and activities that receive federal financial assistance. The Office of Civil Rights (OCR) has interpreted this to prohibit denial of equal access to education because of a student's limited-proficiency in English.

Many districts are undergoing a South Carolina Department of Education (SCDE) Title VI audit for compliance in this area that includes questions about board and/or district policy and procedures. In speaking with SCDE for guidance on how to best assist districts with this issue, the department recommends districts do many things for LEP/immigrant students, mainly driven by OCR, and has corresponded with the districts as to these requirements.

SCSBA's interest is to advise districts on the need for board policy action to fulfill any requirements of the SCDE audit.

No specific board policy for ESOL is required. However, there are adjustments that can be made to several existing policies that will satisfy the needs of the audit, both in the modification of policy language as well as additional legal references as follows. The listing of policy codes indicates the model policies reflecting these changes.

Please contact Catherine Neff at the South Carolina Department of Education cneff@ed.sc.gov or (803-734-2880) for any questions concerning the actual Title VI audit. Contact Pat Kinsey at pkinsey@scsba.org or 1-800-326-3679 if you have policy questions.

Local district action required: Any policies regarding students with nondiscrimination/equal opportunity language should be revised to add "immigrant status or English-speaking status" to the race, color, religion, national origin, sex or disability list. Title VI of the Civil Rights Act of 1964 and Plyler vs. Doe, 1982 should be added to the legal references under federal statutes and Supreme court cases.

Policy reference: AC (Nondiscrimination/Equal Opportunity), JB (Equal Educational Opportunity/Nondiscrimination), JFAA (Admission of Resident Students), JFAB (Admission of Nonresident Students), JFB (School Choice), JI (Student Rights and Responsibilities), JII (Student Concerns, Complaints and Grievances).

APPENDIX D NONDISCRIMINATION/EQUAL OPPORTUNITY POLICY Code AC Issued MODEL/07

Purpose: To establish the basic structure for conduct of district programs in compliance with applicable laws.

The district is required by federal and state laws, executive orders, rules and regulations not to illegally discriminate on the basis of race, religion, color, disability, sex, age, national origin, immigrant status or English-speaking status, or marital status. The district, therefore, commits itself to nondiscrimination in all its education and employment activities.

Further the board affirms the right of all students and staff to be treated with respect and to be protected from intimidation, discrimination, physical harm and/or harassment.

Harassment/discriminatory behavior that denies civil rights or access to equal educational opportunities includes comments, name-calling, physical conduct or other expressive behavior directed at an individual or group that intentionally demeans the race, color, religion, national origin, immigrant status or English-speaking status, sex or disability of the individual or individuals or creates an intimidating, hostile or demeaning environment for education.

Resolution of discrimination complaints

The district will use the grievance procedures set forth in policy to process complaints based on alleged violations of Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964; Title IX of the Education Amendments Act of 1972; Section 504 of the Rehabilitation Act of 1973; and Titles I and II of the Americans with Disabilities Act of 1990 (referred to as "civil rights grievances").

Cf. GBA, GBAA, GBK, JB, JI, JII
Adopted ^

Legal references:

A. Federal statutes:

1. Title VI of the Civil Rights Act of 1964 - Prohibits discrimination on the basis of race, color, national origin, religion or sex.
2. Title VII of the Civil Rights Act of 1964 - Prohibits employment discrimination on the basis of race, color, national origin, religion or sex.
3. Section 504(b) of Rehabilitation Act of 1973 - Prohibits discrimination against "otherwise qualified" handicapped persons by federal grantees.
4. Title IX of the Education Amendments of 1972 - Prohibits sex discrimination by federal education grantees.
5. Title IV of the Civil Rights Act of 1964 - Public school desegregation.
6. Equal Pay Act of 1972 - Nondiscrimination as to wages on basis of sex.
7. Age Discrimination in Employment Act - Nondiscrimination on the basis of age in employment.
8. Americans with Disabilities Act - Prohibits discrimination in employment and access to programs and facilities on the basis of disability.

B. South Carolina Code of Laws, 1976 as amended:

1. Section 1-13-80 - Unlawful employment practices.

C. U.S. Supreme Court:

1. Plyler vs. Doe, 1982.

APPENDIX E

FIRST YEAR EXEMPTION LETTER FOR RECENTLY ARRIVED LEP STUDENTS

Memorandum

TO: District Superintendents
Principals
District Test Coordinators
District ESOL Coordinators

FROM: Teri Siskind
Deputy Superintendent for Accountability

DATE: November 29, 2007

RE: First-Year Exemption for Recently Arrived Limited English Proficient (LEP) Students

New guidance from the United States Department of Education in non-regulatory guidance titled "Assessment and Accountability for Recently Arrived and Former Limited English Proficient (LEP) Students" dated May 2007 as it relates to the allowable testing exemptions for newly arrived LEP students can be accessed using the following Web site: <http://www.ed.gov/policy/elsec/guid/lepguidance.doc>. This memo is a summary of recent changes as follows:

- While previous guidance required the testing of all LEP students in mathematics, even those in their first year in US schools, they are now also required to be tested in science for PACT. South Carolina will not count first-year students who take these tests for accountability purposes if they are less than initially English proficient (SASI 1-4 or A-D) based upon their scores on an approved screener test (Woodcock-Muñoz, Language Assessment Scales, or IDEA Proficiency Test). These students will be counted toward participation in meeting the 95 percent assessment participation requirement. While we encourage the testing with HSAP for all LEP students eligible to take this assessment, students in their first year in U.S. schools will not have their scores counted.
- South Carolina continues to follow the guidance allowing the exemption of the English language arts tests for students who are less than initially proficient (SASI 1-4 and A-D) on the screeners in their first year in U.S. schools as spelled out in the S.C. Accountability Workbook which can be accessed using the following link: http://www.ed.sc.gov/agency/offices/fp/Title_I/documents/SCAccountabilityPlanJuly2007.

First-Year Exemption

- The new guidance will now allow the first-year exemption from accountability measures to also apply to students who were born in the United States, but who enter U.S. schools for the first time in grades 2 or above. Previous guidance restricted this exemption to immigrant children, but this new flexibility will also apply to native born students who returned to their family's home country before entering school here and then returned to the United States at a later date. Students who were born in the U.S., but who enter U.S. schools at a later time (third or sixth grade for example) should be coded in the student atom, page three in SASI, with a date entered U.S. schools, but do not check the emergency immigrant box or put a birth country in the nearby fields.
- Students' test scores can be exempted during only one testing cycle. This exemption also applies to students from Puerto Rico, the outlying areas, or the freely associated states that enter U.S. mainland schools for the first time. Coding for these students will be the same as for other students born in the U.S. as outlined in the previous bullet. The exemption of a student's scores is to be used only for LEP students who have recently arrived in U.S. schools, not for LEP students new to the district or state.

If there are any additional questions about this guidance please contact Catherine Neff, Title III Coordinator, at 803-734-2880 or cneff@ed.sc.gov.

TS/cn

APPENDIX F

PROCEDURES FOR ESOL STUDENTS WHO ALSO HAVE DISABILITIES

MEMORANDUM

TO: Directors of Special Education
ESOL Coordinators

FROM: Susan D. DuRant, Director
Office of Exceptional Children

Catherine Neff, Education Associate
Title III/ESOL

DATE: November 4, 2005

RE: Children Who Are Both ESOL and Special Education Students

The number of English language learners (ELLs) continues to increase in South Carolina. Some of these students may also be identified as a student with a disability. In an effort to provide information concerning the referral, evaluation, and identification process, please review the following:

- When an evaluation team has reason to suspect that an ELL student may have a disability, the team must plan and carry out the evaluation within the guidelines and timelines specified in the State Board of Education regulation 43-243. The evaluation team must keep in mind that there must be evidence of the disability in both the student's native language and not just in the English language. It is crucial that the evaluation team distinguish between a language difference and a learning disorder.
- The use of translated tests is strongly discouraged. Test item difficulty often changes with translation. Many nationally normed tests are limited in their usefulness because the norms have small samples that may not be representative of the student's language background. The evaluation team must select tests whose results reflect the student's aptitude or achievement levels rather than reflecting the student's level of language acquisition. The use of normed referenced tests in the student's native language may be appropriate and useful in certain cases.
- Assessment data must be collected from a variety of sources and use multiple procedures including, but not limited to, informal assessment, observations, checklist, interviews, rating scales, and curriculum-based measures. The services of translators may be appropriate and useful in collecting this data.

Children Who Are Both ESOL and Special Education
Page 2
November 4, 2005

- The instruction related to English language acquisition may vary based upon the accommodations and modifications recommended by the IEP team. These may not involve direct services from an ESOL teacher, but rather may take the form of collaboration among the ESOL teacher, the special education teacher, and the general education teacher. The IEP team should include a member with knowledge and expertise in the acquisition of English as a second language.

The following information should be helpful in coding ELL students who also have a disability:

- Once an ELL student has been identified as needing special education services, the student will continue to be coded as ESL based on the same definitional/language proficiency categories, as are all other ELL students without disabilities.
- If an ELL student with a disability who is identified on the Home Language Survey as coming from a family who speaks a language other than English, but who, due to disability, cannot be tested for an English proficiency level on the diagnostic tests used for this purpose, the student will be coded as an ESL 1 (Pre-functional) in SASI. This student and all other ESOL/Special Education students will continue to be coded as ESL AND Special Education as appropriate in SASI. In addition to the documentation required for Special Education, the Parent Notification Letter will continue to be used as required by Title III law. Checking the "Other" box in the services section and referring to the student's IEP will be sufficient when no direct ESOL services are provided to the student.
- ELL/Special education students will not be coded "ESL Mainstream," "Exited," or "English Speaker I" until they meet the same criteria for these codes as all other ELL students. These criteria are as follows: ESL Mainstream—one year fully English proficient (FEP) on the English language development assessment; Exited—three consecutive years scoring FEP on the English language development assessment; and English Speaker I—proficient on PACT/HSAP in ELA and math once (after having already reached ESL Exited status). In no case will such students be coded English Speaker II, the designation for students whose only language is English.

For further information on these issues, please contact Susan DuRant, Office of Exceptional Children, at 803-734-8806 or sdurant@sde.state.sc.us or Catherine Neff, Title III/ESOL, 803-734-2880, or cneff@sde.state.sc.us.

SDD/CN

APPENDIX G

TITLE IX EXCERPT FROM 9101

NO CHILD LEFT BEHIND ACT OF 2001

Section 9101 – Definitions

- (25) LIMITED ENGLISH PROFICIENT. –The term “limited English proficient”, when used with respect to an individual, means an individual–
- (A) who is aged three through 21;
 - (B) who is enrolled or preparing to enroll in an elementary school or secondary school;
 - (C)(i) who was not born in the United States or whose native language is a language other than English;
 - (ii) who is a Native American or Alaska Native, or a native resident of the outlying areas; and
 - (iii) who comes from an environment where a language other than English has had a significant impact on the individual’s level of English language proficiency; or
 - (iv) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
 - (D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual–
 - (i) the ability to meet the State’s proficient level of achievement on State assessments described in Section 1111(b)(3);
 - (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or
 - (iii) the opportunity to participate fully in society.”

Additionally (specific for South Carolina):

All LEP students participate in the South Carolina State Testing Program with or without accommodations. There are no exemptions from state assessments for LEP students except as allowed by the U.S. Department of Education.

Limited English Proficient students will be included in the LEP subgroup for the purpose of accountability until they exit LEP status per the most recent criteria in the [SCAW](#).

Students who re-enter the program based on poor academic performance are required to receive ELL services. Any student who has re-entered will not be classified as “Former LEP” until they have met the exit criteria for LEP outlined in the SCAW.

The LEP/ELL definition includes students with a wide range of educational needs with respect to learning English as a second language (ESL). Examples include the following types of students:

- Children of recent immigrants who speak no English and who have had no formal training in written language,
- Children of highly-educated immigrants who have had formal training in English and/or their native language during formal schooling, and
- United States-born children whose primary language is not English and who have had limited formal education through English language.

APPENDIX H

RESOURCES

Hold Down Control Button and Left Click Mouse to Follow Links

South Carolina Department of Education (www.ed.sc.gov)

- [Office of Federal and State Accountability](#)
Director – Nancy Busbee
[Title I Coordinator](#) – Steve Abbott
[Title III/ESOL Coordinator](#) – Catherine Neff
[Migrant Education](#) – Betty Black
[English Language Learner Specialist](#) – Jennifer Clytus
- [Office of Standards and Support](#) (Effective April 30, 2009)

Director – Robin Rivers
[Reading First](#) – Pat Branham and Pam Wills
[Response to Intervention \(RTI\)](#) - Pam Huxford
- [Office of Assessment](#) –
Director – Elizabeth Jones
[ELDA Specialist](#) – Christopher Webster
- [Office of Educator Certification](#)–
Director – Jim Turner
ESOL Add-On Specialist/Assistant Director – Bill Billingsley
- [Office of Exceptional Children](#)–
Interim Director – Michelle Bishop
Specialist – Beckie Davis
- [Office of Youth Services](#)
Director – Yvonne McBride
- [Office of Community and Parent Services](#)
Director – Aaron Hayes
- [Technology Services](#)
Manager – Leon Nelson

Other Resources:

- [Southeastern Equity Center](#) Phone: 954-765-3553
www.southeastequity.org
Ms. Tery Medina – National Origin Coordinator
If you represent a state, school district, or public school in Region IV and would like to discuss how the Southeastern Equity Center might assist you in meeting your needs, feel free to contact them.
- [U.S. Department of Education, Office for Civil Rights \(OCR\)](#) –

Phone: 202-786-0500 www.ed.gov/about/offices/list/ocr/index.html
Washington DC Metro OCR Office for South Carolina

- [The National Clearinghouse for English Language Acquisition and Language](#)
Instruction Educational Programs
The George Washington University Center for the Study of
Language and Education – Phone: 1-800-321-6223 or 202-467-0867
Washington, D.C. www.ncela.gwu.edu/

email: askncela@ncela.gwu.edu

Appendix I

Home Language Survey

Name _____ Age _____ Date _____

School _____ Teacher _____ Grade _____

Please check the appropriate answer.

1. What is the first language the student learned to speak?
English _____ Spanish _____ Other _____
2. What language does the student most often speak?
English _____ Spanish _____ Other _____
3. What language is most often spoken in the student's home?
English _____ Spanish _____ Other _____

Parent's Signature

Encuesta del Lenguaje del Hogar

Nombre _____ Edad _____ Fecha _____

Escuela _____ Maestro _____ Grado _____

Por favor marque la respuesta apropiada.

- 1.Cuál es el primer idioma que el estudiante aprendió a hablar?
Inglés _____ Español _____ Otro _____
2. Qué idioma el estudiante habla con más frecuencia?
Inglés _____ Español _____ Otro _____
3. Qué idioma se habla con más frecuencia en el hogar del estudiante?
Inglés _____ Español _____ Otro _____

Firma de los Padres

APPENDIX I
Home Language Survey

Student Name: _____ Student Age: _____ Grade: _____

Parent Name(s): _____

What is the first language the student learned to speak? _____

What language does the student speak most often? _____

What language is most often spoken in the student's home? _____

In what language does the student read? _____

In what language does the student's parent(s) read? _____

Date entered U.S. Schools, if appropriate _____

Birth Country, if appropriate _____

Parent signature(s) _____ Date _____

APPENDIX I
Enrollment Interview

The purpose of collecting educational background information on LEP students is to assist in student placement and educational planning. Minimally, answers to the following questions should be sought:

1. Where did the student last attend school?
2. When was the last time the student attended school?
3. What was the last grade level the student completed?
4. What would be the equivalent grade level in the United States?
5. What subjects has the student had, and what grades did the student receive in school?
6. Has the student ever attended school in the United States? If so, where and for how long?
7. Did the student study in the mainstream, or was an ELL or bilingual program provided?
8. Has the student ever taken English as a foreign language or second language? For how long?
9. Is there any other information that you believe would be helpful to the school in assessing and placing the student?

Note: The parent or guardian of the student may not have the English proficiency necessary for conveying the educational background information at the time of registration. Nevertheless, every effort should be made to obtain the information because it is useful in educational planning for the student. A translator may be needed to accomplish the interview.

(This is not intended to be an exhaustive list of questions, but it should serve as a guide for gathering information related to appropriate placement.)

APPENDIX J

TITLE III MONITORING INSTRUMENT

**Monitoring Instrument for
Title I/III Services**

District: _____ Date: _____

District Contact: _____ Reviewer: _____

Person(s) Interviewed: _____ Phone: _____

Title III - Limited English Proficient and Immigrant Students

OFFICE OF FEDERAL AND STATE ACCOUNTABILITY

LEA Policy and Procedures	Y	N	N/A	Indicators
1. Does the LEA have a policy of admitting students regardless of immigrant status or English-speaking status?				LEA Board-approved policy for enrollment that is in accordance with Plyler vs. Doe (1982) and Title VI of the Civil Rights Act (1964)
2. Is there evidence that the applicable LEA policy and supporting procedures for ESOL services are communicated systematically to all school and LEA personnel?				Written communications and dated documentation of dissemination to also include dissemination of Dr. Rex's letter of September 27, 2007
3. Does the LEA have and communicate systematically to appropriate personnel: A system of assigning a student number if an enrolling student does not have a Social Security number? A procedure for enrolling a student pending receipt of the required record of immunizations?				Written communications and dated documentation of dissemination
4. Does the LEA have an approved Home Language Survey that is completed and filed in the permanent records for each student enrolled in the LEA?				<ul style="list-style-type: none"> • Copy of Home Language Survey • Procedural guidelines for completing and retaining the survey
5. Does the LEA provide high-quality ESOL-related professional development opportunities to all school personnel (teachers, ESOL teachers, principals, administrators)?				Written documentation of dates, topics of PD sessions and attendance rosters
6. Does the LEA retain not more than 2 percent of its Title III funds for administration?				Title III application Expenditure reports
7. Does the LEA offer to consult with private schools about services for their ESOL students?				Evidence of letters sent to private schools

LEA Policy and Procedures	Y	N	N/A	Indicators
8. Does the LEA have effective and timely procedures to <u>identify</u> and <u>assess</u> language minority students who have a primary/home language other than English?				<ul style="list-style-type: none"> • Policies and procedural guidelines • File copy of home language survey
9. Is there documentation to show that the LEA has assessed, using an approved language assessment instrument, all language minority students to determine LEP status?				<ul style="list-style-type: none"> • Procedures/records for assessment • Interview with person responsible for LEP assessment
10. Does the LEA ensure that parents of LEP students are notified, in accordance with Section 3302, of their child's placement in ESOL services?				<ul style="list-style-type: none"> • Procedures/records of notification letters • Dated documentation of dissemination
a) Is there evidence that the LEA Gives parents an opportunity to express ideas and concerns regarding the ESOL programs in which their children participate?				Copies of the Parent Notification Letter with this statement added or other types of communication with all parents of ESOL students
11. Does the LEA have a procedure that allows parents/guardians to waive English language instruction educational services for a child after they have been informed of the educational implications of such a decision?				<ul style="list-style-type: none"> • Procedural guidelines • Copies of waiver form and/or approved waivers
12. Does the LEA place LEP students in special opportunity programs like academically gifted and other specialized programs and allow them to participate in all school activities without regard to their English proficiency?				<ul style="list-style-type: none"> • Documentation of LEP student schedules • Numbers of LEP students in G/T, special education and extracurricular activities
13. Does the LEA implement English language services by a certified teacher who has received appropriate, approved training for working with LEP students?				Documentation of certification and/or additional training
14. Are the ESOL teachers fluent in written and oral English?				Signed assurances statement from superintendent or letter from human resources
15. Are the ESOL teachers obtaining adequate ESOL training toward the add-on certificate?				Evidence of ESOL coursework in ESOL teachers' personnel files; documentation of PD/area course offerings and lists of participants; evidence of Office of Certification-approved PD offerings
16. Are paraprofessionals working with ELLs supervised by certified teachers?				Evidence of this supervision to include shared planning time, push-in schedules, etc

LEA Policy and Procedures	Y	N	N/A	Indicators
17. Does the LEA ensure coordination between the ESOL instructors and mainstream teachers?				<ul style="list-style-type: none"> • Teacher schedules • Modified and coordinated lesson plans
18. Has the LEA developed high-quality, age appropriate English language instruction educational programs designed to meet the needs of LEP children?				<ul style="list-style-type: none"> • Program design information • Interviews with school personnel • Program descriptions • Schoolwide plans
19. Does the LEA implement effective programs based on scientifically based research for teaching LEP children?				Review process for analyzing programs/practices/materials in relation to SBR criteria Schoolwide plans
20. Does the LEA provide a description of the programs and activities conducted by the LEA with Title III funds?				Title III grant application
Parental Involvement				
21. Is there evidence that the LEA				

a) Provides reasonable, meaningful, and sufficient efforts to involve parents/guardians of students who are English language learners in the educational program?				Documentation of parent communications
b) Provides for effective communications with parents of language minority and LEP students?				Copies of parent communications
c) Notifies LEP parents about important school information in a format and language they can understand?				Copies of parental communications in language easily understood to non-native speakers of English
Assessment/Evaluation Components				
22. Does the LEA annually administer assessments of all four English language proficiency skills to all LEP students?				Reports of state-approved assessment results
23. Does the LEA ensure that no fewer than 95% of LEP students in each school and in the LEA participate in required statewide tests for accountability purposes?				<ul style="list-style-type: none"> • State-approved assessment reports • Enrollment verifications

24. Have LEP students demonstrated annual increases in core academic content knowledge?				Core academic subject results on MAP and/or other academic assessment
25. Does the LEA follow student exiting criteria as outlined in the SC Accountability Workbook (SCAW)?				Student records, SASI Codes
26. Does the LEA monitor for a minimum of two years the academic progress of students that are exited from the ESOL services?				<ul style="list-style-type: none"> • Copies of records on LEP students • Procedures in LEA plan • Documentation of monitoring of students • Minutes from review meetings
27. Does the LEA provide:				
a) a description of LEP student progress toward learning English, including the number and percentage of LEP children who				<ul style="list-style-type: none"> • English Learner Program Assessment • Other data analysis evidence
i. are making progress in attaining English proficiency based on ELDA scores (AMAO 1)?				ELDA making progress AMAO target met/not met (20%)
ii. have met AMAO 2 – proficient target?				ELDA attaining proficiency (0.5%)
b) a description of LEP student progress in meeting core-area standards, including the number and percentage of LEP students making AYP in core content area standards on PACT/PASS/HSAP?				AYP for the LEP subgroup measured at the LEA level
c) a description of Exited LEP Student progress toward meeting core-area AYP for each of two years after exit from services?				Use guidance in SC Accountability Workbook: http://www.ed.sc.gov/agency/offices/fp/Title_I/titleI.html
28. Is there evidence that the LEA conducts an annual evaluation of the effectiveness of its English language instruction educational program and that program modifications are made as needed based on the evaluation?				<ul style="list-style-type: none"> • Program evaluations • Documentation of program revisions • Minutes/notes from review meetings • ELPA

APPENDIX K

ENGLISH LEARNER PROGRAM ASSESSMENT1 (ELPA)

1 Developed by the Office of Federal and State Accountability, South Carolina Department of Education, Columbia, South Carolina. For technical assistance purposes only, revised May 17, 2010.

INTRODUCTION

This English Learner Program Assessment (ELPA) document is designed to serve as a technical assistance tool for local educational agencies (LEAs) in analyzing and addressing program service changes as part of the process of evaluating their English for speakers of other languages (ESOL) programs and for Title III. LEAs should address the attainment of academic standards for the English learner (EL) subgroup as well as their program to meet English language proficiency objectives as measured by the English Language Development Assessment (ELDA).

Specifically, the document includes information on the three major tasks involved in ESOL program evaluation:

1. Identifying data and information that are available on EL student performance.
2. Analyzing the available data and information as a foundation to discern the strengths and weaknesses of the current LEA plan in terms of its effectiveness with EL students.
 - a. **SECTION A** contains a framework for analyzing student performance data and other information regarding implementation.
 - b. **SECTION B** focuses on the instructional areas of English language arts (ELA) for EL students. In this section, the LEA should also analyze issues related to English language development and its relationship to ELA. Sample questions are posed to prompt a thorough analysis of these instructional components.
 - c. **SECTION C** deals with mathematics instruction for EL students. Again, questions posed in this section serve as prompts for analysis of this subject area.

When analyzing **Sections B and C**, be sure to look at each element of the plan that significantly impacts the performance of EL students. Determine the degree to which activities were implemented and identify any barriers that impeded full implementation of these activities in the past. Barriers may include:

- i. Scheduling conflicts or inadequate instructional time dedicated to subject.
 - ii. Lack of materials or materials not appropriate for context.
 - iii. Lack of consistent implementation across classrooms or grade levels.
 - iv. A high expectation for all students has not been clearly communicated resulting in the perception that students, parents, or the demographics of the communities become identified as barriers to achievement.
- d. **SECTION D** poses questions on providing high-quality professional development activities designed to have a positive and lasting impact on teacher performance in classrooms. Teachers adequately trained, supported, and coached in effective instructional strategies have a positive impact on student performance.

- e. **SECTION E** focuses on active parental participation and involvement activities, as research indicates that strong home-school connections support and accelerate student learning.
3. Formulating responses to address each element that needs improvement.

When contemplating responses to address program need areas, the school staff should keep in mind the following issues:

- a. If certain elements of the LEA Plan were not implemented, what is the likelihood that full implementation as planned would lead to significantly improved EL student outcomes?
- b. Do any of the activities need to be revised and bolstered in order to generate the desired results?
- c. Do some activities need to be deleted from the plan and replaced by more effective strategies?
- d. Is there a need to add any new and different instructional activities to improve instruction?

SECTION A – DATA ANALYSIS FOR THE ESOL/LEP SUBGROUP

- 1. Annual progress in English-language proficiency (Title III, Annual Measurable Achievement Objective [AMAO] 1).
 - a. What percent of ESOL students in your LEA met AMAO 1?
 - b. Examine performance on AMAO 1 since 2004-05.
- 2. Progress in attaining English-language proficiency (Title III, AMAO 2).
 - a. What percent of ESOL students in your LEA met AMAO 2?
 - b. Examine performance on AMAO 2 since 2004-05.
- 3. Progress in achieving academic standards (Title III AMAO 3 and Title I Adequate Yearly Progress [AYP] for LEP Subgroup).
 - a. Did the LEP subgroup meet AMAO 3 targets for participation rate in English language arts (ELA)? In mathematics?
 - b. Did the LEP subgroup meet the AMAO 3 targets for percent proficient in ELA? In mathematics?
 - c. What percent of the LEP subgroup was proficient or above in ELA? In mathematics?

PERFORMANCE ON THE ENGLISH LANGUAGE DEVELOPMENT ASSESSMENT (ELDA)

4. **AMAO 1:** How are ESOL students meeting their growth target on ELDA based on matched longitudinal data? SC's AMAO 1 target for 2008-09 is 20%. For 2009-10, the target is 21% and for 2010-11 the target will be 21.5%.

<i>Prior Year ELDA Improvement (Composite Score Change)</i>	<i>Number in Prior Year</i>	<i>Percent in Prior Year</i>	<i>Number Most Recent Year</i>	<i>Percent Most Recent Year</i>	<i>State Average Percent²</i>
Made Progress					41.4%
Stayed the Same					41.2 %
Regressed					17.4%

5. **AMAO 2:** How are ESOL students performing on ELDA based on the length of time they have been in U.S. schools? Note: This analysis can also be done on length of time in the district. SC's AMAO 2 target for 2008-09 is 0.5%. For 2009-10 it is 1% and for 2010-11 the target will be 1.5%.

<i>Length of time in U.S. schools</i>	<i>ELDA Proficiency Level</i>				
	<i>Percent initially English proficient (Composite 5)</i>	<i>Percent Advanced (Composite 4)</i>	<i>Percent Intermediate (Composite 3)</i>	<i>Percent Beginner (Composite 2)</i>	<i>Percent Pre-functional (Composite 1)</i>
6 years or more					
5 years					
4 years					
3 years or less					

PERFORMANCE IN ACADEMIC CORE SUBJECTS: South Carolina Palmetto Achievement Challenge Tests (PACT), Palmetto Assessment of State Standards (PASS), and High School Assessment Program (HSAP)

6. How are ESOL students at the English proficient level on the ELDA (Composite 5) performing on the PASS (in ELA and mathematics) by grade level? What percent of students are in each of the following performance levels: below basic, basic, proficient, and advanced?

² The South Carolina state average is computed annually. Averages reflected here are from the 2008-09 school year. These numbers will be adjusted periodically. Please see our technical assistance website for the most current AMAO data.

7. How are ESOL students at the beginning, intermediate and advanced levels on ELDA performing on the PASS (in ELA and mathematics) by grade level? What percent of students are in each of the following performance levels: below basic, basic, proficient, and advanced?
8. How are exited students (ESL 6 and 7) performing on the PASS by grade level? What are the numbers of exited students at each grade level? What percent of students are in each of the following performance levels: below basic, basic, proficient, and advanced?
9. How are ESOL students performing on the HSAP according to the length of time they have been in the district/in ESOL?
10. How are exited students (ESL 6 and 7) performing on the HSAP according to the length of time they have been in the district/in ESOL?
11. Identify other sources of information that would provide information about the effectiveness of the program and the degree to which activities were actually implemented:
 - a. Drop out rates for ESOL students compared to school/LEA drop out rates, ESOL attendance compared to other students
 - b. Percent of ESOL students taught by a teacher with the ESOL endorsement
 - c. Participation of ESOL students in special education (number and percentage) and development of linguistically appropriate goals and objectives
 - d. Exit rates by time in program
 - e. First language data and birth country data
 - f. Local assessments, South Carolina End-of-Course Examination Program
 - g. Program budget and expenditures
 - h. Inventory of ESOL materials and monitoring of implementation
 - i. Teacher interviews/surveys
 - j. Percent of ESOL students meeting graduation requirements compared to all students
 - k. Percent of ESOL students enrolled in advanced placement classes compared to all students
 - l. Percent of ESOL students identified as Gifted and Talented students compared to all students

SECTION B—LANGUAGE ARTS AND ESOL

1. What are the core instructional materials for ESOL instruction? To what extent is the South Carolina Department of Education (SCDE) adopted curriculum utilized to address needs of ELs? How is implementation monitored? How does the LEA determine effectiveness of implementation? What steps are taken to modify if necessary?
2. To what extent are supplemental ESOL materials utilized to address assessed needs of ELs in ESOL programs including academic literacy and academic content vocabulary?
3. How does the LEA ensure that ESOL instruction is aligned to the *English for Speakers of Other Languages and English Language Arts Standards*?
4. What ongoing assessments are used to monitor attainment of the ELA standards? How often are students assessed? How do assessment results inform instructional practices? Are ESOL students making growth targets for formative assessments used by the LEA?
5. What is the school wide focus on ESOL and standards based instruction at schools in the district? Describe the emphasis on academic language and literacy throughout the content areas.
6. How are ESOL students grouped for classroom instruction to reflect their English language proficiency levels (whole group, small group, pairs, and tutorials)? Discuss the instructional time provided within the context of those groupings, specifically the daily time allotments per grade level and any additional time provided to reinforce and extend the basic program.
7. In departmentalized settings, how does the master schedule accommodate the needs of the ESOL subgroup? How does the LEA ensure that EL students at the secondary level receive comprehensive access to core curriculum and appropriate placement?
8. What are the criteria for placing ESOL students in ESOL classes versus mainstream English classes at the secondary level?
9. How does the LEA ensure that ESOL students receive ESOL lessons based on their proficiency level?
10. To what extent do teachers providing ESOL instruction have specific knowledge about the structure of language?
11. Is there evidence from your analysis of AMAO 1 that students have a difficult time progressing beyond the Intermediate level? What specific instructional strategies is the district employing to help students progress beyond this level?
12. What specific instructional strategies are being used to address the needs of long-term ELs? (i.e. students who have been in the district or U.S. schools for more than

- four years that are not at the English proficient level on ELDA; or students who have scored at the English proficient level on ELDA and have not met the academic criteria on the Palmetto Assessment of State Standards (PAAS)? How are these instructional strategies different from those used for other struggling students?
13. How is the ELA instruction aligned with the *English Language Arts Standards* and the *English for Speakers of Other Languages Standards* for the ESOL subgroup?
 14. How does ESOL instruction interface with ELA instruction to ensure that students receive standards-based instruction appropriate to their English proficiency level?
 15. What interventions, in addition to the regular SCDE adopted instructional materials that are used in the content courses for all students, are provided and how effective are they for ESOL students identified as more than two grade levels below in reading? How are ESOL students identified for interventions?
 16. What is the scientifically based research local plan (as stated in the Title III application) for the LEP subgroup and how effective is its implementation? How is this effectiveness measured?
 17. How are the SCDE adopted instructional materials, other standards-aligned instructional materials, and supplementary materials used to meet the literacy needs of ESOL students?
 18. How is instruction to ESOL students provided in order to ensure they have access to the core curriculum in ELA? Describe modifications provided to ESOL students.
 19. Describe the instructional program and method of instruction for ELs who require additional instructional time to master English and achieve at high levels in ELA. Does the district extend the day or the school year, provide Saturday classes, etc?
 20. How does the district meet the needs of ELs who also have learning disabilities? Who is involved in writing linguistically appropriate goals and objectives? If determined by the Individualized Educational Program (IEP) team, how are English language Special Education services provided?

E.

F. SECTION C – MATHEMATICS

1. How is instruction in mathematics aligned with the SCDE adopted *Mathematics Standards*?
2. How are the SCDE adopted instructional materials (and other standards-aligned instructional materials) used to meet the needs of EL students?
3. How is instruction provided to EL students in order to ensure that they have access to the core curriculum in mathematics?
4. How are EL students grouped for instruction within classroom settings (such as whole group, small group, pairs, and tutorials)?

5. Discuss the instructional time allocated and provided within the context of those groupings, specifically the daily time periods per grade level and any additional time provided to reinforce and extend the basic program.
6. In departmentalized settings, how does the master schedule accommodate the needs of the EL subgroup?
7. What are the criteria for placing EL students in appropriate math classes at the secondary level?
8. To what extent are secondary level EL students provided extra time to master math and other secondary school curriculum?

SECTION D - PROFESSIONAL DEVELOPMENT

1. What are the qualifications of teachers providing instruction to EL students in ESOL? In ELA? In mathematics?
2. How are teachers with responsibilities for ESOL students provided with frequent coaching and consultation in ESOL best practices resulting from classroom observations by qualified staff members knowledgeable in ESOL instruction issues?
3. What professional development training have classroom teachers, principals, administrators, paraprofessionals and other support staff received in curricula, assessment measures, instructional strategies and method of instruction to address the needs of ESOL students?
4. What plan does the district have to assure that all ESOL teachers have the proper endorsement to teach ESOL students?
5. Explain how structures or schedules have been organized and supported to assure adequate time for staff collaboration?
6. What process is used to determine the focus of professional development activities and how are teachers, administrators, paraprofessionals, other staff, parents, and community members involved in the process?
7. Classroom-based improvements in curriculum, instructional programs, and methods of instruction still may not be enough to compensate for the learning requirements of ELs. As you assess the LEA's current culture and performance, evaluate the following factors that may affect pupil academic achievement:
 - a. Teachers have high expectations for all students.
 - b. Teachers are committed to achieving academic equity.
 - c. Teachers believe they make a difference in their students' learning.
 - d. Teachers develop personal bonds with students.

- e. Teacher collaboration time has been established to discuss student achievement.
- f. Students are academically challenged.
- g. Students see learning tasks as meaningful.
- h. Parents and community members are given a voice in school decisions.
- i. Provided qualified coaches for teachers and principals to collaborate about effective work.
- j. Adjusted master schedules allow more intervention time for struggling students.

SECTION E – PARENT INVOLVEMENT/OUTREACH

1. How are parents/guardians informed, in a language understandable to the parent, of the degree to which their children are meeting ESOL, grade-level ELA and mathematics standards?
2. What involvement and outreach activities have been offered to parents/guardians to help them actively support the education of their children?
3. How have parents and guardians been included in the distribution and collection of needs assessments and surveys to help guide the professional development plan and training activities of the district?
4. How are parents made aware of the academic achievement of all students in the district and are they aware of the achievement gap that exists between sub-groups?

G. COMPLETION OF THE LEA PLAN

As the staff completes analyses of the strengths and weaknesses of the program, they should move to writing the proposed new Title III Grant Application, Local Plan. The activities should be designed to result in a **significant, substantial, and positive** improvement in the overall academic achievement and English language proficiency of ESOL students.

APPENDIX L

ENGLISH LANGUAGE LEARNER COURT RULINGS

LAU vs. NICHOLS

ELLs and U.S. Schools

English Language Learners may enter the U.S. school system with previous educational experience and literacy skills in their native language, or their schooling may have been interrupted by world events and they may not be able to read and write or perform academically at grade level in their mother tongue. ELL students not only enter U.S. schools at all ages and grade levels, but they also possess the same range of skills and educational needs as do any other students – they may be candidates for gifted and talented programs, or may be in need of special education services.

English Language Learners must learn the same academic content that fluent English-speaking students are learning in school, except that ELLs must do so at the same time as they are acquiring a new language. Learning a language is a difficult task which takes time. In school, a more formal and abstract form of English is employed by teachers and in textbooks; making it that more difficult to comprehend. In 1974, the Supreme Court ruled in *Lau v. Nichols* that school districts must provide special services to English Language Learners so that they have equal educational opportunity. In its ruling, the Court noted:

there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education. Basic English skills are at the very core of what these public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program, he must already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful. [414 U.S. 563 (1974)]

ELLs need language instruction educational programs which allow them to progress academically while they are acquiring English language skills. There are several different program models; however all include both academic content and English language development components. The specific model a school district implements will depend on the composition of the student population, resources available and the community's preferences.

PLYLER vs. DOE

In 1982, the Supreme Court rules in Plyler v. Doe , 457 U.S. 202 (1982), that public schools were prohibited from denying immigrant students access to a public education. The Court stated that undocumented children have the same right to a free public education as U.S. citizens and permanent residents. Undocumented immigrant students are obligated, as are all other students, to attend school until they reach the age mandated by state law.

Public schools and school personnel are prohibited under Plyler from adopting policies or taking actions that would deny students access to education based on their immigration status.

Based on the Supreme Court's ruling, public school districts should consider the following practices in working with ELL students:

- School officials may not require children to prove they are in this country legally by asking for documents such as green cards, citizenship papers, etc. They may only require proof that the child lives within the school district attendance zone, just as they might for any other child.
- Schools should be careful of unintentional attempts to document students' legal status which lead to the possible "chilling" of their Plyler rights.
- **The following school practices are prohibited:**
 - Barring access to a student on the basis of legal status or alleged legal status.
 - Treating students disparately for residency determination purposes on the basis of their undocumented status.
 - Inquiring about a student's immigration status, including requiring documentation of a student's legal status at initial registration or at any other time.
 - Making inquiries from a student or his/her parents which may expose their legal status.
- **Federal Program Requirements** - Federal education programs may ask for information from parents and students to determine if students are eligible for various programs, such as Emergency Immigrant Education. If that is the case, schools should ask for voluntary information from parents and students or find alternative ways of identifying and documenting the eligibility of students. However, schools are not required to check or document the immigrant status of each student in the school or of those students who may be eligible for such programs. The regulations do not require alien registration numbers or documentation of immigration status.
- **Social Security Numbers** - Schools should not require students to apply for Social Security numbers. If schools decide to pass out Social Security registration forms to assist the Social Security Administration, they must tell

parents and students, in appropriate languages, that the application forms are merely a service and it is up to the parents and students whether the applications are actually filed. They should stress that schools will not monitor the filing of these applications. Additionally, schools should not require any student to supply a social security number.

- **School Lunch Programs** - In order to qualify for Free or Reduced Lunch Programs, all applicants are required to furnish either of the two following types of information:
 - Social Security numbers of all household members over the age of 21, should they have one
 - For all household members above the age of 21 who do not have a Social Security number, an indication of the application that he or she does not possess one.
 - If a student or household members over the age of 21 do not have a Social Security number, "none" should be written in that space or another identifying number could be assigned by the school.
 - Parents and students should be reminded that the Family Educational Rights and Privacy Act (FERPA) prohibits any outside agency, including the Immigration and Naturalization Services (INS), from getting this information without obtaining permission from the student's parents or a valid court order.
 - School lunch programs are interested in determining household income, not in determining a student's legal status.

- **Communication with INS** - Any communication to INS initiated by a school or school official concerning a specific student is prohibited. If parents and/or students have questions about their immigration status, school personnel should refer them to legal service organizations, immigrant rights organizations, or local immigration attorneys. They should not advise immigrants to go directly to INS offices without first getting proper advice from an attorney or immigrant rights advocate.

- **Requests for information by INS** - School personnel are prohibited from cooperating with INS in any way that may jeopardize an immigrant students' right of access (with the exception of the administration of F-1 and J-1 visas). INS requests for information can only be released upon the presentation of a valid subpoena. All school personnel should be advised of this policy. If a subpoena is presented, it may be advisable to check with an attorney to properly check into the validity of the subpoena.

- **Requests by INS to enter a school** - School personnel should not cooperate with INS in any manner that jeopardizes immigrant students and their right of access. The school principal should meet with INS officials in the front office with a credible witness present, deny the INS officials consent, and request to see a legal warrant. If a warrant is presented, the principal should determine that it:

- Lists the school by its correct name and address
- Lists students by name
- Be signed by a judge
- Be less than ten days old
- Be served by an INS officer with proper identification.
To protect other students in the school, the principal should bring the INS officials to the office and request that they remain there while the named student(s) is brought to them. The principal should immediately inform the Superintendent and school attorney.

School District Personnel should always consult an attorney to clarify their duties and responsibilities under Plyler. This document is intended solely for guidance.

Source:

"Immigrant Students: Their Legal Right of Access to Public Schools. A Guide for Advocates and Educators" by John Willshire Carrera, Esq. National Coalition of Advocates for Students. Boston MA

APPENDIX M

SAMPLE ANNUAL MEASUREABLE ACHIEVEMENT OBJECTIVES (AMAO) PARENT NOTIFICATION LETTER

[Use District letterhead]

Dear Parent or Guardian:

[*Name of LEA, county office or charter school*] receives Title III funding from the federal government to help English language learners learn to speak, read, listen, comprehend, and write in English and to achieve in core academic content areas such as English language arts, mathematics, science, and social studies. School districts and other agencies that receive Title III funds are reviewed each year, as required under the No Child Left Behind (NCLB) Act of 2001, to see if they meet the three Annual Measurable Achievement Objectives (AMAO) for their English language learners:

- Progress in learning English
- Progress in the percentage of students who become proficient in English
- Meeting Adequate Yearly Progress (AYP) targets in English-language arts and mathematics

For the 2007–08 school year, [*Name of district, county office or charter school*] did not meet one or more of these targets. [*Explain which of the objectives were not met.*]

If you would like more information about how your child is performing on these targets, please contact your child's teacher or school. Please contact [*name of LEA contact person, title*] at [*phone number*] for more information on the English Speakers of Other Languages (ESOL) program to help English learners become English proficient and meet academic goals.

Sincerely,

[*District Administrator's name*]

APPENDIX N

Title III/LEP District Improvement Plan

INSTRUCTIONS FOR SOUTH CAROLINA SCHOOL DISTRICTS IN NEEDS IMPROVEMENT FOR LEP STUDENTS Under the Title III/LEP Accountability Requirements

I. Background

All Title III LEAs serving Limited English Proficient (LEP) students³ are held accountable for demonstrating annual progress and proficiency in English language acquisition and for attaining AYP targets for this sub-group ([NCLB, Title III, section 3122\(b\)](#)). The Annual Measurable Achievement Objective (AMAO) accountability structure set forth in Title III is a three-tiered structure. The AMAO targets set by the South Carolina Department of Education (SCDE) are based on the performance of ELL students on the ELDA (statewide English language proficiency assessment) as well as the performance of ELL students on state administered achievement assessments.

Following are the three AMAO target criteria.

- **Progress toward English Language Proficiency:** The South Carolina AMAO-making progress objective is that 20 percent of students in a LEA or a Consortium of LEAs will make progress as defined by increasing their composite score one level each year.
- **Attaining English Language Proficiency:** The South Carolina AMAO-proficiency objective is that 0.5 percent of students attain proficiency (currently composite score of 5 on ELDA) each year in each LEA and/or consortium.
- **Adequate Yearly Progress (AYP):** LEAs must make AYP for ELL students served by programs funded under Title III.

To meet AMAO, an LEA must achieve ALL targets defined by the state in all three areas. LEAs that did not meet their AMAO for two consecutive years are required to develop an improvement plan which will ensure that the LEA meets AMAO in the future. LEAs that did not meet AMAO for four consecutive years the state educational agency shall

³ [LEP students](#) are English language learners (ELLs) who are specifically placed in a language development program, based on the home language survey (HLS) and initial screener tests.

- require such entity to modify the entity's curriculum, program, and method of instruction; or
- make a determination whether the entity shall continue to receive funds related to the entity's failure to meet such objectives, and require such entity to replace educational personnel relevant to the entity's failure to meet such objectives.

II. **Additional District Improvement Plan Requirements under NCLB**

The **Accountability** measures, as set forth in section 3122(b) state that in addition to providing the general parental notifications, each district that has failed to make progress on the annual measurable achievement objectives for any fiscal year, shall separately inform a parent or the parents of a child identified for participation or participating in such program of such failure within 30 days of notice of failure to reach AMAO. All notifications sent home to parents, must be translated into the home language, to the extent practicable. In addition, a parent has the right to remove their child from an LEP program at any time, ([NCLB, 3302\(a\)\(A\), 3302\(b\)](#)).

Any type of improvement plan or restructuring should be seen as an opportunity for an LEA to thoroughly evaluate their programs and assess what steps need to be taken or changes that need to be made so that the LEA is able to better serve the LEP population.

LEAs, or school districts, that have not met any one AMAO for two or more consecutive years, must write a school improvement plan. The SCDE seeks to streamline the school improvement planning process, so that districts can utilize, yet augment existing documentation for serving LEP students. Therefore, the Title III/LEP District Improvement Plan mirrors Sections I and II of the Title III Grant Application except for actual monetary obligations in budget reports. In addition, districts may pull information from other locations to assist in the development of their improvement plan, for example:

Existing LEP Plan
Current Title III Grant Applications

This district improvement plan will be added to the existing annual Title III application, except that budget reports and narratives will need to be amended if needed for this fiscal year. Changes to your district improvement plan for the next school year will need to be submitted by July 1st and should include any other improvements in instruction, professional development, and parental involvement that will also improve the success of your LEP students.

III. District Improvement Planning Workshops and Technical Assistance

District Title III Coordinators in districts that need to write an improvement plan will be required to attend a district improvement planning workshop.

District Improvement Planning Workshops: The meeting will be held on March 1, 2010, at the State Accident Fund Building, located at, Suite 150, 800 Dutch Square Blvd. Columbia, SC 29210.

This will be a workshop for technical assistance. District ESOL Coordinators in year 1, 2, 3, and 4 or more of not meeting AMAO targets should attend.

If you have further questions and to let us know who will be attending, please contact Catherine Neff at 803-734-2880 or cneff@ed.sc.gov or Jennifer Clytus at 803-734-8306 or jclytus@ed.sc.gov.

IV. Plan submission

Plans must be received at the department by March 31, 2010. Plans should be submitted to:

Catherine Neff, Title III/ESOL Coordinator
SC Department of Education
1429 Senate Street, Suite 707-E
Columbia, SC 29201

Failure to submit a Title III/LEP District Improvement Plan to the SCDE Title III office by the deadline must be justified.

Plans will be reviewed by staff for completeness and compliance. Effectiveness must be determined and reviewed within the district. Additional technical assistance from the SCDE Title III group will be provided to districts requesting additional help.

Title III/ LEP Plan Contents:

This section describes the required contents and format for Title III/LEP District Improvement Plans.

Each LEA plan must include the following:

- 1. Cover Page.** Use the form provided on page four. Provide the requested information on the plan cover page, including the signatures of the LEA superintendent or authorized representative.
- 2. Introduction (optional).** Include a description of the community or area served by the district, a description of the specific schools being served, the number and characteristics of the school's students and faculty, the grades served, and any other pertinent information that helps to describe the context in which the LEP students are served. The following should also be included in the introduction.

Required

- a) A brief statement as to why the district is in *needs improvement*; and
 - b) A brief introductory overview of the underlying data driving the *needs improvement* status. This would include data from the ELDA and/or PACT/PASS as a minimum.
- 3. Title III/LEP Improvement Plan.** These pages mirror Section I and II of the Title III Grant Application except for actual monetary obligations in budget reports.
 - 4. Appendices.** If necessary, attach appendices that have been clearly referenced and explained in the Title III/LEP Improvement Plan.
 - 5. Year 4 Title III/LEP Action Plan.** Districts that are in year 4 corrective action must also complete the Title III/ LEP Action Plan.

**SOUTH CAROLINA DEPARTMENT OF EDUCATION
No Child Left Behind
Title III/LEP District Improvement Plan**

1. Name of District (Local Educational Agency):	
2. Address of District:	3. Contact Person for this Plan: Name: Position: Telephone: Fax: E-mail:
4. To the best of my knowledge and belief, all data in this plan are true and correct. The governing body of the district has duly authorized this plan. The District Superintendent and School Board are aware that this document could be made public.	
a. Typed Name of District Superintendent or Authorized Representative:	
b. Signature of District Superintendent or Authorized Representative: The Superintendent has been presented the LEP/Title III District Improvement Plan and signs off on the quality.	c. Date:
d. Signature of District Title III Coordinator: The District Title III Coordinator has been presented the LEP/Title III District Improvement Plan and signs off on the quality.	e. Date:
f. Signature of SCDE Title III Coordinator: The SCDE Title III Coordinator has been presented the LEP/Title III District Improvement Plan and signs to approve the proposed plan.	g. Date

TITLE III/LEP District Improvement Plan Cont.

SECTION I Activities

Check how the district plans to use the funds for the _____ school year.
(Check all that apply.)

Program Component #

1. ____ Upgrading program objectives and effective instruction strategies
2. ____ Improving the instruction program for LEP children by identifying, acquiring, and upgrading curricula, instruction materials, educational software, and assessment procedures
3. ____ Providing tutorials and academic or vocational education for LEP children
4. ____ Providing intensified instruction
5. ____ Developing and implementing elementary school or secondary school language instruction educational programs that are coordinated with other relevant programs and services
6. ____ Improving the English proficiency and academic achievement of LEP children
7. ____ Providing community participation programs, family literacy services, and parent outreach and training activities to LEP children and their families
 - a) to improve the English language skills of children; and
 - b) to assist parents in helping their children to improve their academic achievement and become active participants in the education of their children
8. ____ Improving the instruction of LEP children by providing for
 - a. the acquisition or development of educational technology or instructional materials;
 - b. access to, and participation in, electronic networks for materials, training, and communication; and
 - c. incorporation of appropriate resources into curricula and programs
9. ____ Another allowable program component has been selected from the law for funding.

Describe: _____

SCDE approval required prior to requesting funds for ____ other activities.

TITLE III/LEP District Improvement Plan Cont.

SECTION I **Activities** (cont.)

1. Describe the instructional programs and activities being carried out by your LEA.
 - a) Include a description of the programs and initiatives your LEA is implementing to enhance learning for LEP children
 - b) Include how the proposed activities being carried out with these funds will ensure that LEP children being served by the program develop English proficiency by providing high-quality language instruction educational programs that are based on scientifically based research demonstrating the effectiveness of the programs in increasing
 - i.) English proficiency; and
 - ii.) student academic achievement in the core academic subjects; and
 - iii.) Enable children to speak, read, write, listen, and comprehend the English language.
2. Explain how the LEA will provide high-quality professional development to classroom teachers, principals, administrators, and other school or community-based organizational personnel, that are
 - a) designed to improve the instruction and assessment of limited English proficient children;
 - b) designed to enhance the ability of such teachers to understand and use curricula, assessment measures, and instruction strategies for limited English proficient children;
 - c) based on scientifically based research demonstrating effectiveness of the professional development in increasing children's English proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of such teachers; and
 - d) of sufficient intensity and duration (which shall not include activities such as one-day or short-term workshops and conferences) to have a positive and lasting impact on the teacher's performance in the classroom, except this shall not apply to an activity that is one component of a long-term, comprehensive professional development plan established by a teacher and the teacher's supervisor based on an assessment of the needs of the teacher, the supervisor, the students of the teacher, and any local educational agency employing the teacher.

TITLE III/LEP District Improvement Plan Cont.

SECTION II. **The Local Education Agency (LEA) Plan**

1. Describe how the district will promote parental and community participation in programs for LEP children.
2. Describe how the district will use the funds to meet all annual measurable achievement objectives described in section 3122.

Program Evaluation

3. Provide a description of how your district has evaluated the effectiveness of its ESOL program to determine whether it meets the needs of your district's LEP student population. Based on this Program Evaluation which programs were effective, which ones were not? What actions have been taken to address components of the program that are not working?
 - a) Include a description of how the district used data from ELDA, PACT/PASS, HSAP, MAP, EOCEP, other assessments, and other data collected at the district level and school level by program administrators, teachers, principals, etc. and/or used the [English Learner Program Assessment \(ELPA\)](#) to efficiently evaluate program effectiveness.
 - b) Include a description of how the LEA collected on-going formative and summative assessment data and how that data was utilized to evaluate the effectiveness of ESOL programming.
 - c) Include a description of how the LEA will address/fix any areas the program evaluation identified as not being effective.
 - d) Include in your description how the district holds schools receiving funds accountable for
 - a) meeting the annual measurable achievement objectives described in 3122;
 - b) making adequate yearly progress for LEP children, as described in section 1111(b) (2) (B); and
 - c) annually measuring the English proficiency of LEP children, so that such children served by the programs carried out under this part develop proficiency in English while meeting state academic content and student academic achievement standards as required by section 1111(b)(1).

TITLE III/LEP District Improvement Plan Cont.

- 4) Describe how your district will change and/or improve its program evaluation to determine the effectiveness of your ESOL program. Describe how the district will use the [English Learner Program Assessment \(ELPA\)](#), data from ELDA, PACT/PASS, HSAP, MAP, EOCEP, other assessments, and

other data collected at the district level and school level by program administrators, teachers, principals, etc. to efficiently evaluate program effectiveness if not already being used. The description of how the LEA will change and/or improve its program evaluation should also include how the LEA will collect on-going formative assessment data and summative assessment data and how that data will be utilized to evaluate the effectiveness of ESOL programming if not already being used. The description should also include a general plan of action for how the LEA will address/fix any areas the program evaluation identifies as not being effective.

- 5) Describe technical assistance, if any, to be provided to the district in developing or implementing the plan. (Please contact Title III staff if technical assistance is needed.)

TITLE III/LEP District Improvement Plan Cont.

Plan Requirement	LEA Review Criteria
<input type="checkbox"/> Address the teaching and learning needs in the schools of the district and the specific academic problems of low-achieving students, including a determination of why any of the district's prior plans failed to bring about increased student academic performance.	Describe why district's prior plans have not succeeded in improving student achievement.
<input type="checkbox"/> Incorporate scientifically based research strategies that strengthen the core academic program in the schools served by the district.	Briefly describe scientifically based research for each instructional strategy or curriculum proposed.
<input type="checkbox"/> Identify actions that have the greatest likelihood of improving the achievement of students in meeting the academic performance requirements in (NCLB, Title III, section 3122(b)) .	Strategies proposed target reasons for not making AYP.
<input type="checkbox"/> Address professional development needs of the mainstream and ESOL teachers, principals, admin., etc.	Professional development description provided in plan. It should reflect already submitted plans that include professional development needs.
<input type="checkbox"/> Incorporate, as appropriate, activities before school, after school, during the summer , and during an extension of the school year.	Extended learning opportunities described if included in plan.
<input type="checkbox"/> Specify any technical assistance to be provided to the district.	Describe technical assistance, if any, to be provided to the district.
<input type="checkbox"/> Include strategies to promote effective parental involvement in the school.	Parent involvement strategies provided in plan.
<input type="checkbox"/> Include how the program was evaluated to determine the effectiveness of the ESOL program.	Describe results of the ESOL program evaluation, changes and/or improvements to program, and how future program evaluations will be conducted

APPENDIX O

Year 4 Title III/LEP Corrective Action Plan

(For districts in year 4 or more corrective action only)

1. Describe why the district's prior plans have not succeeded in improving student achievement.

2. The appropriate plan of action as determined by the SCDE to be taken as required by Title III Law for districts in Year 4, [\(NCLB, Title III, section 3122\(b\)\)](#) is checked below:

- Require such entity to modify the entity's curriculum, program, and method of instruction; or
- Make a determination whether the entity shall continue to receive funds related to the entity's failure to meet such objectives; and require such entity to replace educational personnel relevant to the entity's failure to meet such objectives.