

Title I-C & Title III —  
No Child Left Behind Act of 2001



# Serving Undocumented English Language Learners

*Overcoming statutory,  
financial, technical,  
linguistic and  
cultural barriers  
to education*

A school is required to have documentation that a child has been immunized or is exempt from immunization because of religious beliefs or a medical contraindication determined by a physician. A school may also ask for proof of residency within the district, transcripts and information to verify a student's age. Documents such as birth certificates, hospital records and affidavits can be used to verify age. Under no circumstances should a student be denied enrollment because the student or parent cannot provide or refuses to provide a birth certificate and/or a Social Security number. A student's undocumented status refers to the inability to provide a Social Security number, green card, visa or other documentation indicating legal residence in the United States. A student cannot be denied admission to school or participation in a program based on his or her undocumented status. Such discrimination would be a denial of the equal protection of the law in violation of the 14th Amendment to the U.S. Constitution.



## Definitions

**Limited English Proficient (LEP)** is an individual:

- (1) who is age 3 through 21
- (2) who is enrolled or preparing to enroll in an elementary school or secondary school
- (3) (A) who was not born in the United States or whose native language is a language other than English  
(B) – who is Native American or Alaska Native or a native resident of the outlying areas  
– 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  
(C) 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
- (4) whose difficulties in speaking, reading, writing or understanding the English language may be sufficient to deny the individual —  
(A) the ability to meet a proficient level of achievement on state assessments described in section 1111(b)(3) of the No Child Left Behind (NCLB) Act of 2001  
(B) the ability to successfully achieve in classrooms where the language of instruction is English  
(C) the opportunity to participate fully in society.

**Immigrant Children and Youth** are individuals:

- (1) who are ages 3 through 21
- (2) who were not born in the United States
- (3) who have not been attending schools in any one or more states for more than three full academic years.

**English for Speakers of Other Languages (ESOL)** are programs that teach language skills to students from non-English-speaking backgrounds.

**English Language Learners (ELLs)** are speakers of other languages who are in the process of learning English. This abbreviation may be used to indicate LEP students.

**Refugee** is defined by the Office of Refugee Resettlement as "... any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."

**Migratory Child** is defined as a child who is, or whose parent or spouse is, a migratory agricultural worker (including migratory dairy workers and migratory fishers). In order to obtain temporary or seasonal employment in agricultural or fishing work during the preceding 36 months (or to accompany a parent or spouse for such a purpose), a migratory child is someone:

- (1) who has moved from one school district to another
- (2) who has moved from one administrative area to another in a state that is comprised of a single school district
- (3) who resides in a school district of more than 15,000 square miles and who migrates a distance of 20 miles or more to a temporary residence in order to engage in fishing activities.

## **Understanding Challenges of Undocumented Student Families**

Many undocumented students come from families that endured natural disasters, wars, political unrest, economic hardships and other challenges in their countries of origin. Once they arrive in the United States, these families are under pressure to communicate in English and to find appropriate housing, employment and schools. They must undergo the difficulties of new family structures and living in new ethnic cultures. Often, family members must take several low-wage jobs to make ends meet. In some cases, family members are unemployed, and they must depend on relatives in order to survive. An adequate education of these families allows them to overcome language obstacles and achieve success. Schools must be sensitive to the complex challenges that face undocumented students who are struggling to transition into an American society that offers opportunities for growth and safety.

### **Service Requirements**

It is illegal to put a bilingual/ESOL aide or a paraprofessional in charge of a classroom that is not under the supervision of a certified teacher. The approach used most often for teaching in Missouri is ESOL. Title III of the NCLB Act requires all teachers in language-instruction educational programs for ELLs to be fluent in English and any other languages used by the programs, including written and oral communication. This is especially true for bilingual education. Teachers do not need to be fluent in the languages of all ELLs. For the ESOL approach, the English fluency of teachers must meet the requirement.

### **Service Expectations**

A school district is responsible for providing a language-instruction educational program that increases the English proficiency and academic achievement of ELLs. Whether districts receive funds from the state or federal level, the expectation is to hold ELLs to the state academic-content and academic-achievement standards established for all children. The Missouri Department of Elementary and Secondary Education can provide technical-assistance services to districts through the Migrant Education and English Language Learning (MELL) program. ELLs' placement-test results are key factors in determining the kind of services to provide and how often to deliver them in order to enable children to speak, read, write, listen and comprehend the English language. Schools are required to carry out a two-year follow-up after a child is no longer receiving services. The "Educating Linguistically Diverse Students" handbook, found on the MELL website at [dese.mo.gov/qs/me/ell](http://dese.mo.gov/qs/me/ell), contains expectations and a checklist to help districts evaluate their programs. Districts should consider what they can do for all ELLs and for the specific needs of each

individual child. Suggestions including instructional approaches, program evaluations and cultural considerations can also be found in the handbook.

The bottom line is that a district must determine whether ELLs are able to access a school's curriculum with all of its cultural and social implications. District policies, resources and context will influence the types of services available, as well as the approach and content. However, the language-instruction curriculum must be tied to scientifically based research on teaching ELLs. It must have demonstrated effectiveness, which involves the application of rigorous, systematic and objective procedures to obtain reliable and valid knowledge relevant to educational activities and programs. For the complete definition, refer to ESEA section 9101 (37), page 969, which can be found at <http://dese.mo.gov/divimprove/fedprog/discretionarygrants>.

### **Foreign Exchange Students**

The NCLB Act does not discourage or prevent schools from enrolling foreign exchange students. These programs are valuable and enrich the education of all parties involved. Schools have the discretion to enroll or not enroll foreign students even though the students may be treated like residents during the attendance year. The state of Missouri highly recommends that school districts enroll these students. As temporary visitors who are not entitled to receive educational services, it is understood that schools have no obligation to evaluate them for English language proficiency, but schools may do so at their discretion. Assessment results for foreign exchange students enrolled for less than a year, even if the students are Limited English Proficient, should not be included in the school-level measurement of Adequate Yearly Progress required by the NCLB Act. Schools should review their own exchange student policies.

### **Parental Notification**

Under Title III of the NCLB Act, schools are required to provide informed parental notification as to why a child is in need of placement in a specialized language-instruction program. Parents must be told no later than 30 days after the beginning of the school year, or they must be notified within two weeks if the child is identified during the school year. Parents have the right to immediately remove their child from a program for ELLs. They also have the right to choose among instructional programs if multiple options are offered. Schools are required to implement effective means of parental outreach encouraging parents to become informed and active participants in their child's language-instruction program. Because the legislation is silent on whether parents should be notified before assessing students, the Department does not require school districts to seek parental authorization to test children for the ELL classification. Details on parental notification are located in Appendix E of the "Educating Linguistically Diverse Students" handbook.

## English for Speakers of Other Languages (ESOL) Resources

### ***Migrant Education and English Language learning (MELL) and Federal Programs***

These sections of the Office of Quality Schools at the Department give grants to school districts and institutions of higher education to facilitate the learning of English for ELLs. The sections also provide grants for the professional development of teachers, administrators and personnel serving ELLs and immigrant students. For more information, call 573-526-3232, or go online to <http://dese.mo.gov/qs/me/ell>.

### ***Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students (OELA)***

OELA provides grants to school districts to facilitate the acquisition of English for ELLs. Visit <http://www.ed.gov/about/offices/list/oela/index.html>.

## Title I and Title III

The current Title I and Title III programs were launched under the NCLB Act, which reauthorized the Elementary and Secondary Education Act (ESEA) of 1965. Serving the LEP population might mean integrating resources from Title I and Title III programs to provide a high-quality education to these children, who could be classified as at-risk students. Integrating or combining resources means designing programs that could be implemented through the use of either resource. However, Title I services alone are not enough to help ELLs and immigrant students.

## Identification and Assessment of English Language Learners (ELLs)

The identification of ELLs starts when the first enrolling student in a district walks through the door. The Missouri School Improvement Program (MSIP) requires that all districts screen students to determine the students' language backgrounds. There must be a screening system in place for every enrolling student.

There are two simple ways to identify ELLs — administer a home language survey, or include home language questions on the school enrollment form. Questions on the enrollment form should at least include the following:

- 1) Do you use a language other than English?
- 2) Is a language other than English used at home?

Any method the district chooses should be applied consistently to all students. If a district does not re-enroll all students at the beginning of each school year or has not been using an appropriate screening system, all students who are currently enrolled should be surveyed. Once ELLs are identified, their English language abilities must be assessed.

When assessing ELLs, two points should be kept in mind. First, all four language modalities — reading, writing, speaking and listening — must be assessed. Second, the results should allow comparison with a student's peers at an age-appropriate grade level. The state of Missouri requires W-APT from WIDA for identification and placement.

For more information, visit <http://dese.mo.gov/qs/me/ell.htm>.



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