



ENGLISH LEARNERS IN THE ESEA, AS AMENDED BY THE ESSA

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AGENDA

English Learners (ELs) in the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA)*

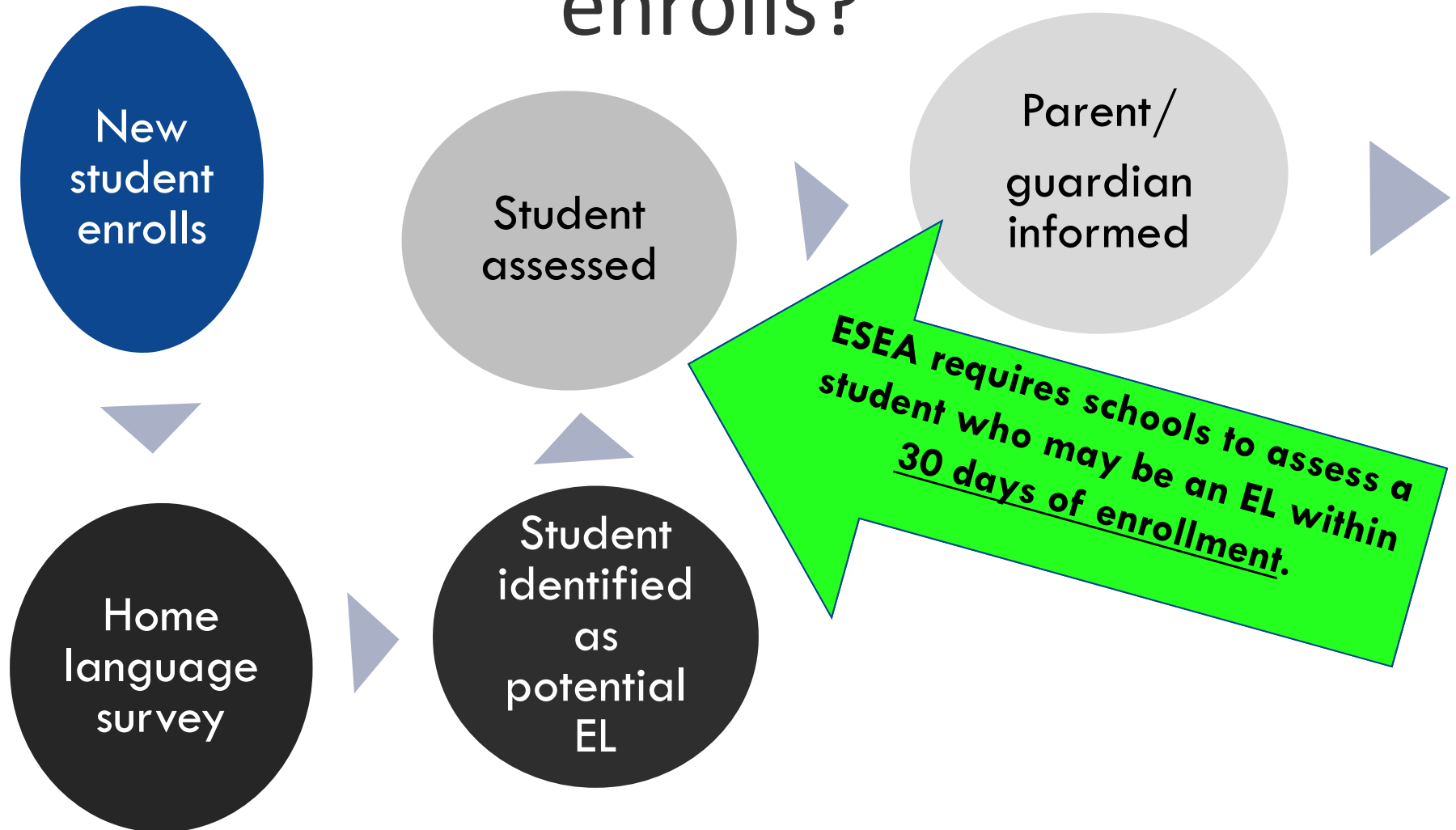
- Intro – Civil rights and the ESEAELs with disabilities
- Assessments for ELs (Title I)
- Accountability for ELs (Title I)
- Title III
- Questions

*The ESEA, as amended by the ESSA, will be referred to as the ESEA throughout the presentation.



Introduction:
Civil Rights Obligations
to ELs,
And ELs under the ESEA
(as amended by ESSA)

What happens when a student enrolls?



Language Instruction Educational Program



- “Lau” civil rights obligation (Lau v. Nichols, US 1974): meaningful participation in programs
- Courts apply the standards in Casteneda v. Pickard (5th Cir. 1981)

Types of LIEPs

Dual Language

Develop a student's literacy in two languages

- Two-way immersion or developmental bilingual
- Transitional
- Heritage language

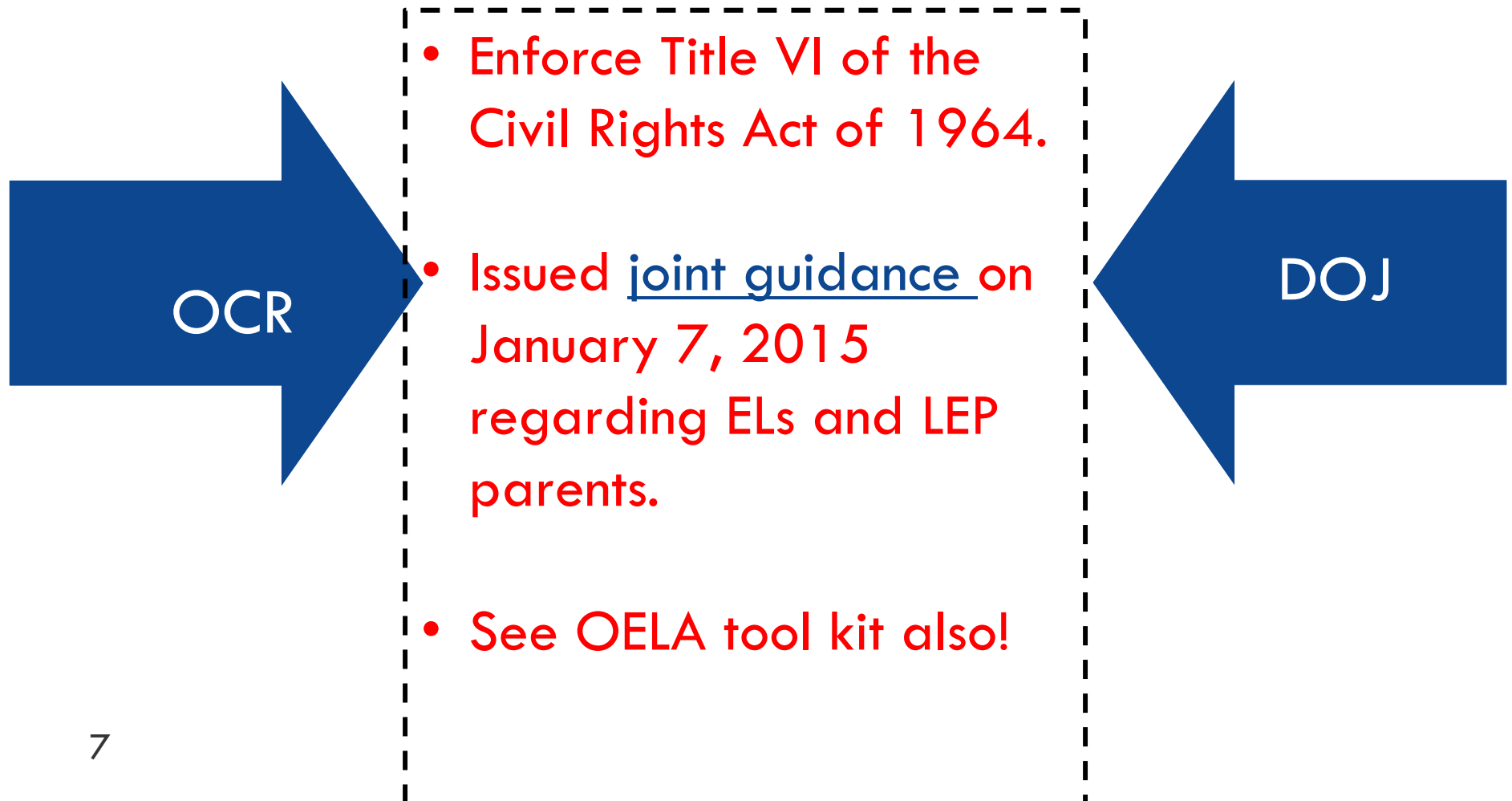
ESL

Develop a student's literacy in only English

- Sheltered English instruction
- Structured English immersion
- Pull-out English as a second language (ESL)
- Push-in ESL program

See EL Toolkit Chapter 2

ED's Office for Civil Rights (OCR) and English Learners



ESEA and English Learners

- Uses “English Learners” to replace “Limited English Proficient”.
- Statewide ELP assessment for all ELs.
- ELP accountability for ELs moved from Title III (no more AMAOs) to Title I.
- Requires Title I LEAs to conduct outreach, including regular meetings for parents of ELs.

ESEA and English Learners

- Title III requires that states establish and implement standardized statewide entry and exit procedures for ELs.
- Adds reporting requirements for Title III LEAs
 - ELs with disabilities, and
 - Long-term ELs (ELs who have not achieved proficiency after 5 years of being initially classified as an EL).

ESEA AND ENGLISH LEARNERS

The amended ESEA mentions several types of ELs, including:

- ELs who are also students with disabilities,
- Recently arrived ELs, and
- Students no longer receiving EL services (Former ELs).



IDENTIFICATION OF ELS WITH DISABILITIES

- Students who are both ELs and children with disabilities are eligible for both sets of services.
- Delaying a referral for a special education evaluation can result in the under-identification of ELs as “children with disabilities” under the IDEA.
- Some districts delay referral for one or the other: not OK.



IDENTIFICATION OF ELS WITH DISABILITIES

To ensure that students, including ELs, are appropriately evaluated, the IDEA requires that: **special education assessments/evaluations must be not to be discriminatory on a racial or cultural basis**, and be provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so. (34 CFR § 300.304(c)(1)).



HOW SHOULD LEAS EXIT AN EL WITH A DISABILITY FROM EL SERVICES?

- An EL with a disability can be “exited” from EL status when he/she no longer meets the definition of an EL (i.e., when the student meets the State’s definition of “proficient” in English).
- The LEA, school personnel, and/or the IEP Team may have input into the decision of whether a student is proficient in English.

See new requirement for an alternate ELP assessment for certain ELs (under Assessment section below).





Assessments for English Learners – ESEA Title I



ASSESSMENTS FOR ENGLISH LEARNERS

ENGLISH LANGUAGE PROFICIENCY ASSESSMENTS

- States must administer a **single statewide English language proficiency (ELP) assessment** to all ELs in grades K-12
(ESEA section 1111(b)(2)(G), 34 C.F.R. § § 200.5(a)(2) and 200.6(h)).
- The State ELP assessment must:
 - Be aligned with ELP standards (ESEA section 1111(b)(2)(G), (b)(1)(F));
 - Be uniform, valid, and reliable (34 C.F.R. § 200.6(h)(1));
 - Provide coherent and timely information about each student's attainment of the State ELP standards to parents (34 C.F.R. § 200.6(h)(2)); and
 - Include students with disabilities (section 612(a)(16)(A) of the IDEA and 34 C.F.R. § 200.6(a)(1), (h)(4)).



ASSESSMENTS FOR ENGLISH LEARNERS

ELP ASSESSMENTS – ELS WITH DISABILITIES

States must:

- Provide **appropriate accommodations** that are necessary to measure a student's English language proficiency (34 C.F.R. § 200.6(h)(4)).
- Provide for an **alternate ELP assessment** for each EL who is also a student with the most significant cognitive disabilities who cannot participate in the State ELP assessment even with appropriate accommodations (34 C.F.R. § 200.6(h)(5)).
- Ensure that teachers and other appropriate staff receive **necessary training** on how to administer assessments and how to make use of appropriate accommodations for all students with disabilities (34 C.F.R. § 200.6(b)(2)(ii)).



ASSESSMENTS FOR ENGLISH LEARNERS

ELP ASSESSMENTS – ELS WITH DISABILITIES

- For an EL has a disability that precludes assessment of the student in one or more domains of the ELP assessment (listening, reading, speaking, and writing) such that there are no appropriate accommodations for the affected domain(s), a State **must** assess the student's English language proficiency based on the **remaining domains** in which it is possible to assess the student (34 C.F.R. § 200.6(h)(4)(ii)).

*Such determination must be made on an individualized basis by the student's IEP team, 504 team, or for students covered under Title II of the Americans with Disabilities Act by the team or individual designated by the LEA to make those decisions.



ASSESSMENTS FOR ENGLISH LEARNERS

ACADEMIC ASSESSMENTS

- States must assess in English the achievement of ELs in **reading/language arts** if the student has attended schools for 3+ consecutive years and, on a case-by-case basis, an additional 2 years (ESEA section 1111(b)(2)(B)(ix), 34 C.F.R. § 200.6(g)).
- State assessments in **math, science, and, subject to the time limits above, reading/language arts** can be in the native language: “assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until [they] have achieved English language proficiency (ESEA section 1111(b)(2)(B)(vii), 34 C.F.R. § 200.6(f)(1)(ii)).



ASSESSMENTS FOR ENGLISH LEARNERS:

ACADEMIC ASSESSMENTS

- States must make every effort to develop native language assessments for all languages present “to a significant extent” in a State, define what it means for a language to be present “to a significant extent,” and ensure that the most common language (besides English) is included in that definition (ESEA section 1111(b)(2)(F), 34 C.F.R. § 200.6(f)(1)(ii), (2)-(4)).
- States must indicate languages that meet the State’s definition for which assessments are not available and are needed.
- States must develop a plan and timeline for developing these assessments (34 C.F.R. § 200.6(f)(2)(ii)(D)).



ASSESSMENTS FOR ENGLISH LEARNERS:

ACADEMIC ASSESSMENTS

- States are permitted to administer assessments in a Native American language to students enrolled in a **Native American language school or program** in any subject until the students are in high school, regardless of whether the students are identified as ELs (34 C.F.R. § 200.6(i)).
- Such assessments must be peer reviewed.
- States must continue to ensure that ELs in Native American schools or programs receive EL services and that an annual ELP assessment is administered.



Native American Languages cont' d

Note new ESEA program under
Title VI (Indian Education) for
NAL@ED grants – programs
using a AI/AN language as the
primary language of instruction
see OIE website (ESEA section
6133)

ASSESSMENTS FOR ENGLISH LEARNERS

ACADEMIC CONTENT ASSESSMENTS

- States must develop appropriate accommodations for ELs; disseminate information and resources about such accommodations to, at a minimum, LEAs, schools, and parents; and promote the use of those appropriate accommodations to ensure that all ELs are able to participate in academic instruction and assessments (ESEA section 1111(b)(2)(B)(vii), 34 C.F.R. § 200.6(f)(1)(i)).





Accountability for English Learners – ESEA Title I



ACCOUNTABILITY SYSTEM – CONTENT ASSESSMENTS

- Under ESEA, the required subgroups for CONTENT assessments are:
 - Economically disadvantaged students,
 - Students from each major racial and ethnic group,
 - Children with disabilities,
 - **English Learners.**
- A State may, but is not required to, include additional subgroups.



ACCOUNTABILITY - CONTENT ASSESSMENTS

A.4.i.d: EXCEPTION FOR RECENTLY ARRIVED ENGLISH LEARNERS

Recently arrived EL – an EL who has been enrolled in schools in the U.S. for less than 12 months (ESEA Section 1111(b)(3)(A), 34 C.F.R. § 200.6(k)(2)).

Note:
compare SIFE



ACCOUNTABILITY

A.4.i.d: EXCEPTION FOR RECENTLY ARRIVED ENGLISH LEARNERS

Exception A (ESEA section 1111(b)(3)(A)(i))									
	Year 1 Assessments			Year 2 Assessments			Year 3 Assessments		
	R/LA	Math	ELP	R/LA	Math	ELP	R/LA	Math	ELP
EL Takes Assessment?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
State Reports Score?	--	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
State Includes in Accountability?	--	No	No	Yes	Yes	Yes	Yes	Yes	Yes

Exception B (ESEA section 1111(b)(3)(A)(ii))									
	Year 1 Assessments			Year 2 Assessments			Year 3 Assessments		
	R/LA	Math	ELP	R/LA	Math	ELP	R/LA	Math	ELP
EL Takes Assessment?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
State Reports Score?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
State Includes in Accountability?	No	No	Yes	Growth	Growth	Yes	Proficiency		Yes



FORMER ENGLISH LEARNERS

- **Accountability:** the State may include in the English learner subgroup the results of students previously identified as English learners on the State assessments for purposes of State accountability, for not more than four years after the student exits English learner status.
- **Reporting: for 4 years** (described under Title III section below).



ESSA CHANGE IN ELP ACCOUNTABILITY

ELP accountability for ELs moved from Title III to Title I (no more AMAOs): accountability systems under Title I now include goals and interim targets for English language proficiency (ELP) progress, and an EL indicator with substantial weight.



LONG-TERM GOALS AND MEASUREMENTS OF INTERIM PROGRESS

Academic
Achievement

Four-year
Graduation Rate

Extended-year
Graduation Rate
(optional)

Progress in
Achieving ELP



STATE LONG-TERM ELP GOAL (1111(c)(4)(A))

- States must have an ambitious long-term goal for increases in the percentage of EL students making **progress in achieving ELP** (measured by the statewide ELP assessment), including:
 - Baseline data
 - The State-determined timeline for such students to achieve ELP.
- States must include measurements of interim progress toward the long-term goal for increases in the percentage of ELs making progress toward ELP.



ACCOUNTABILITY SYSTEM INDICATORS

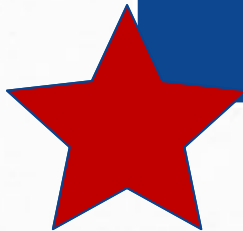
Academic
Achievement

Other Academic
Indicator (for schools
that are not high schools)

Graduation Rate

Progress in
Achieving English
Language
Proficiency

School Quality or
Student Success



INDICATORS (1111(c)(4)(B))

PROGRESS IN ACHIEVING ELP INDICATOR

- The State must describe the Progress in Achieving English language Proficiency (ELP) indicator, including the State's definition of ELP, as measured by the State's ELP assessment.
- The indicator must measure the progress of **all** English learners in each of grades 3 through 8 and in the grade for which such English learners are otherwise assessed during grades 9 through 12.

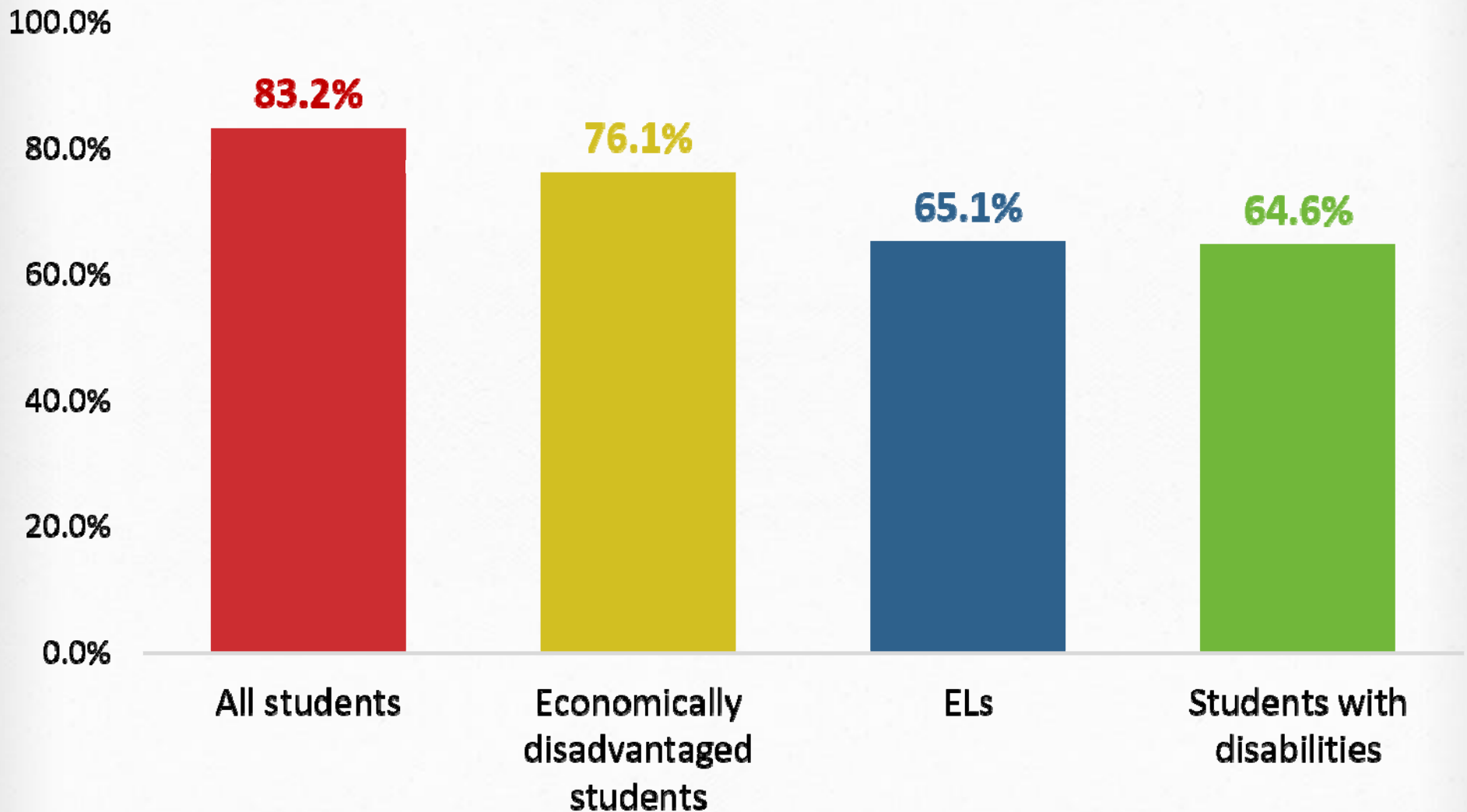


SO HOW ARE ELS DOING?

(WHY THE NEW EMPHASIS ON ELS
IN ACCOUNTABILITY)



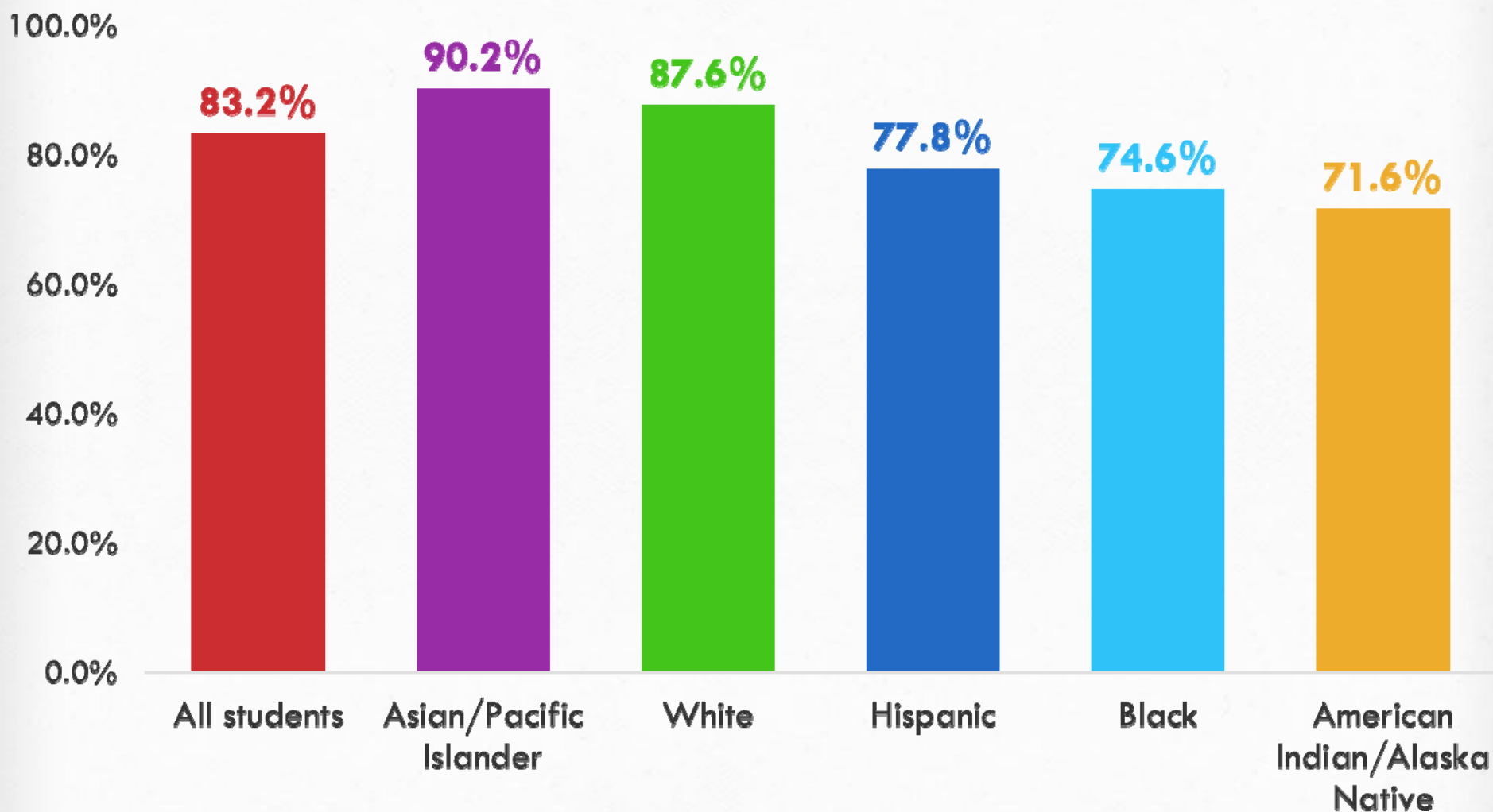
HIGH SCHOOL GRADUATION RATES, BY STUDENT GROUP: SY 2014-15



Source: EDFacts/Consolidated State Performance Report, 2014-15:
<http://www2.ed.gov/admins/lead/account/consolidated/index.html>



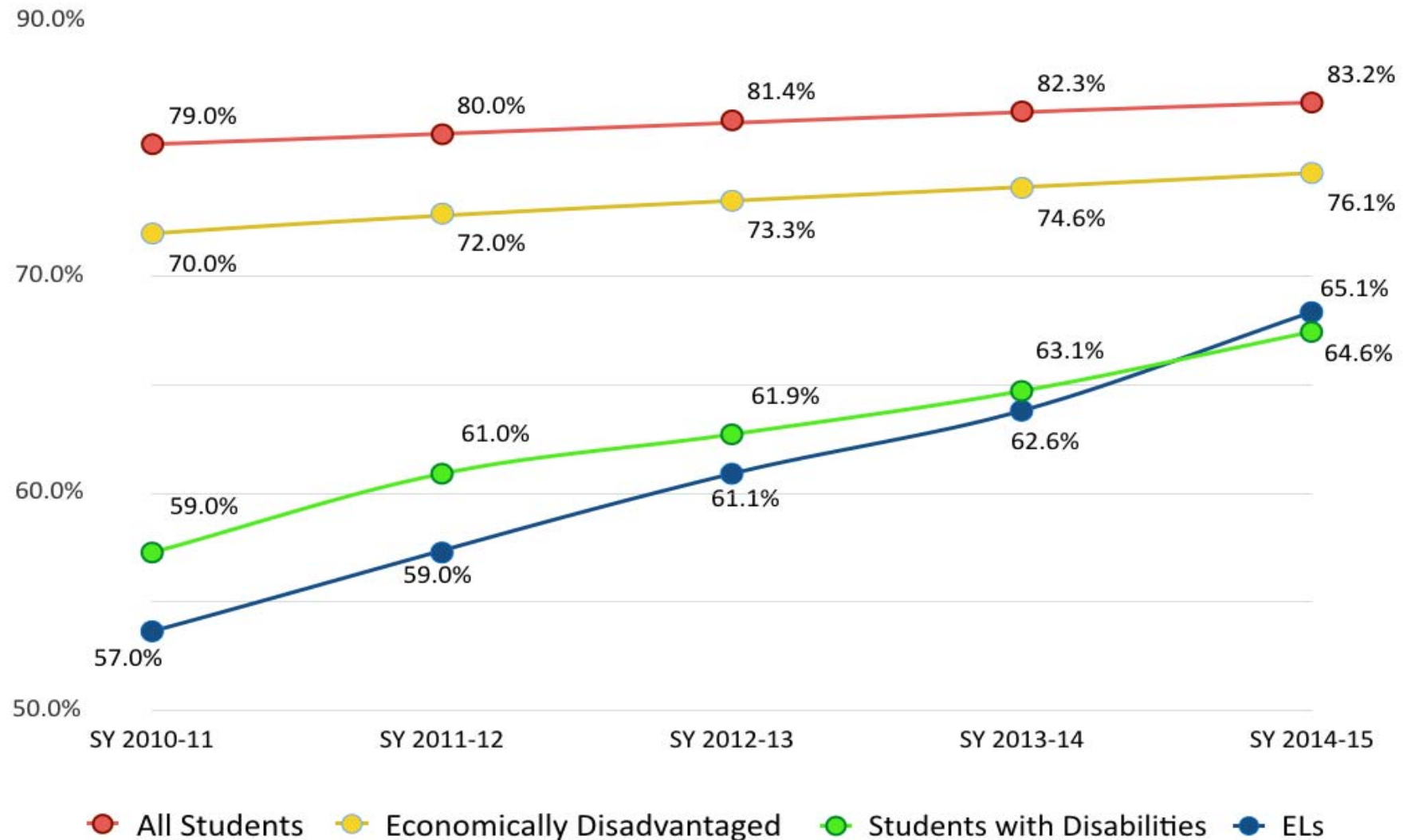
HIGH SCHOOL GRADUATION RATES, BY RACIAL/ETHNIC CATEGORY: SY 2014-15



Source: EDFacts/Consolidated State Performance Report, 2014-15:
<http://www2.ed.gov/admins/lead/account/consolidated/index.html>



TRENDS IN HIGH SCHOOL GRADUATION RATES BY STUDENT GROUP: SYs 2010-11 TO 2014-15



Source: EDFacts/Consolidated State Performance Report, 2010-11, 2011-12, 2012-13, 2013-14, and 2014-15: <http://www2.ed.gov/admins/lead/account/consolidated/index.html>





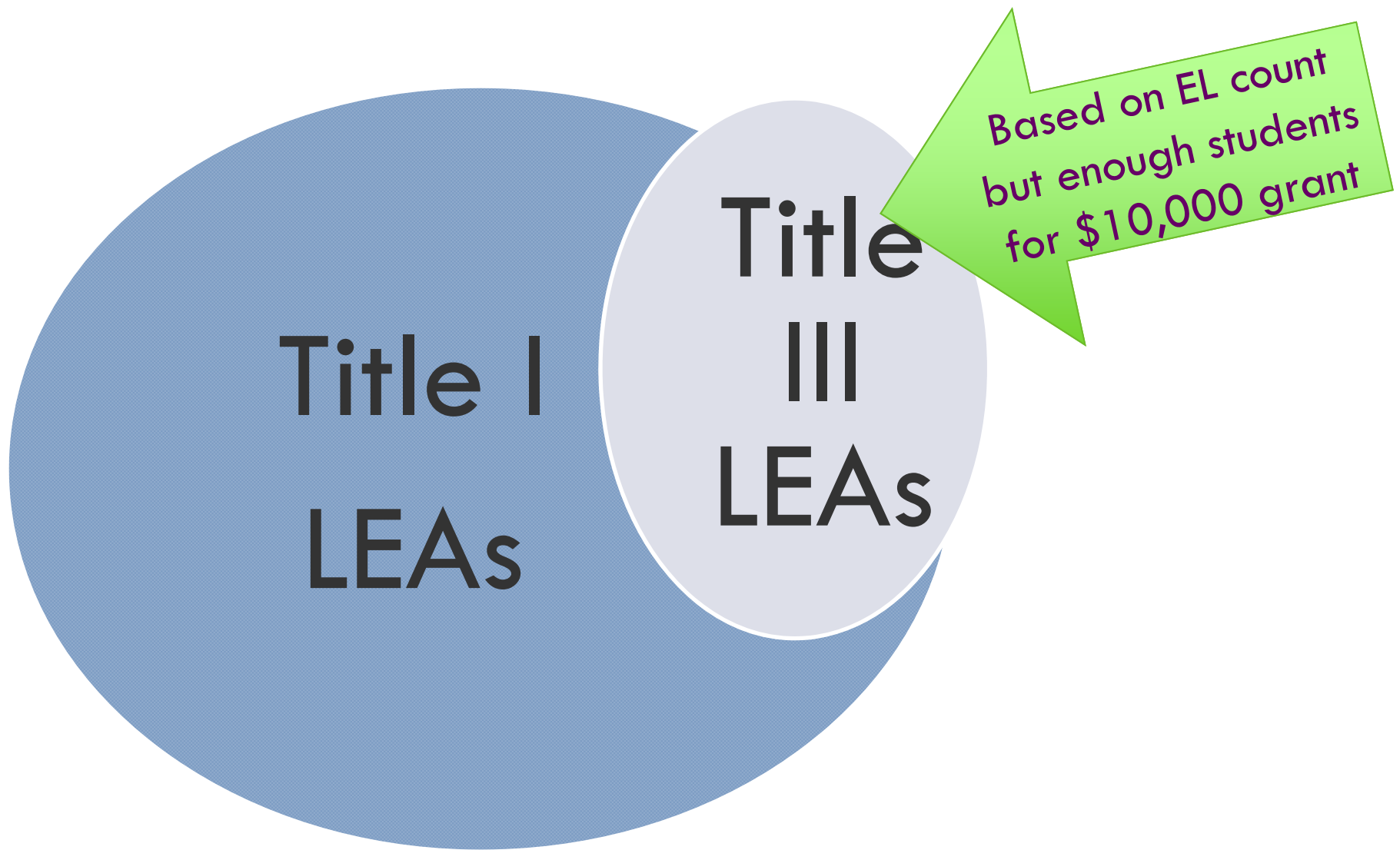
ESEA Title III, Part A



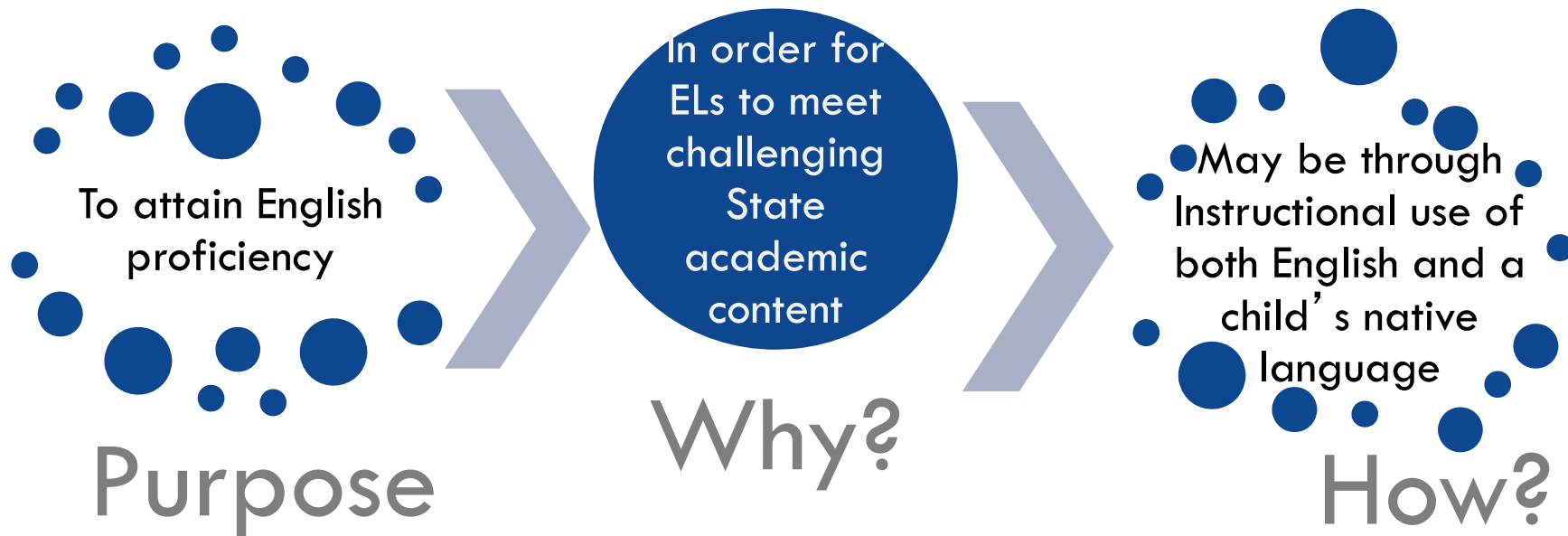
General purpose of Title III

To help ensure that English Learners, including immigrant children and youth, attain English language proficiency and meet the same standards that all children are expected to meet.
(Section 3102 of the ESEA, as amended by the ESSA)





LIEPs under Title III



- Title III services must be supplemental to the “Lau” civil rights obligation.
- LIEP must be “effective.”
- Title III provides services to grades K-12, and may also provide services in PreK.

Moved from Title III to Title I

State activities that have moved to Title I include:

- Alignment of ELP standards to State content standards.
- Alignment of ELP assessments to ELP standards.
- Establishment of ELP goals and indicators for accountability purposes.
- Identification for interventions to address ELs' academic achievement and progress in attaining ELP.

Moved from Title III to Title I

LEA activities that have moved to Title I include:

- EL parental notification regarding LIEPs and related information.
- Parental participation (regular EL parent meetings).
- Reporting to the State on the number and percentage of ELs achieving ELP.

TITLE III: STANDARDIZED ENTRANCE AND EXIT PROCEDURES

- Under Title III (section 3113(b)(2)), each State must establish and implement standardized entrance and exit procedures for ELs.
- States must assure assessment of all students who may be ELs for English language proficiency within 30 days of enrollment in a school in the State.



REPORTING – EXITED ‘FORMER’ ELS

- LEAs that are Title III subgrantees must report to the State on the academic achievement of an EL for each of the four years after such student has achieved ELP and no longer receives EL services – in the aggregate and disaggregated by ELs with a disability. (ESEA section 3121(a)(5))
 - In reporting these data, LEAs should include students who have met the Statewide exit procedures required under Section 3113(b)(2) of the amended ESEA.



TITLE III REPORTING (CONT' D)

LEAs that are Title III subgrantees must also report to the State on:

- # and % of ELs making progress towards ELP, disaggregated by ELSWD
- # and % of ELs attaining ELP
- # and % of ELs exiting EL services
- # and % of ELs who have not attained ELP within 5 years





Questions?

KEY SOURCES FOR THE PRESENTATION

Key Provisions for English Learners in the amended ESEA:

- Title III, Part A
- Title I, Part A

Final Regulations for Title I, Part A Assessments

- 34 C.F.R. § 200.2, 200.5, and 200.6
- Non-Regulatory Guidance for Title III (September 23, 2016)



RESOURCES ON ELS

- Non-Regulatory Guidance: ELs and Title III, Part A:
www2.ed.gov/policy/elsec/leg/essa/essatitleiiienglishlearners92016.pdf
- Non-Regulatory Guidance: Early Learning in the ESSA:
www2.ed.gov/policy/elsec/leg/essa/essaelguidance10202016.pdf
- January 7, 2015 Dear Colleague Letter: Department of Education, Office of Civil Rights and Department of Justice:
www2.ed.gov/about/offices/list/ocr/ellresources.html
- EL toolkit: www2.ed.gov/about/offices/list/oela/english-learner-toolkit/index.html
- Innovative Solutions for Including Recently Arrived ELs in State Accountability Systems:
www2.ed.gov/about/offices/list/oese/oss/technicalassistance/real-guidefinal.pdf
- Office of Special Education Programs-funded TA centers and resources:
<http://www.OSEPIDEASATWork.org>



RESOURCES ON THE AMENDED ESEA

- Peer review criteria

<https://www2.ed.gov/admins/lead/account/stateplan17/essastateplanpeerreviewcriteria.pdf>

- Revised Consolidated State Plan Template

<https://www2.ed.gov/admins/lead/account/stateplan17/revisedessastateplanguidance.docx>

- Copy of ESEA, as amended by ESSA:

<https://www.ed.gov/essa?src=rn>

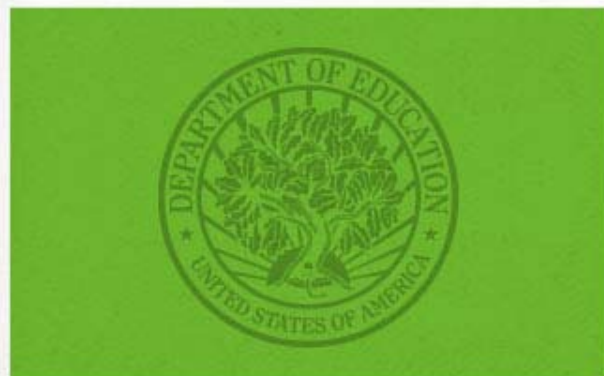
- Other ESSA resources

<https://www2.ed.gov/policy/elsec/leg/essa/index.html>





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THANK YOU



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