

Title III Accountability: Behind the Numbers

ESEA Evaluation Brief: The English Language Acquisition, Language Enhancement, and Academic Achievement Act

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Title III of the *Elementary and Secondary Education Act (ESEA)*, as reauthorized by the *No Child Left Behind Act of 2001*, provides funding to support programs for English Learners (ELs)¹—referred to in the law as “limited English proficient children”—and establishes a system for holding recipient states and districts accountable for their performance in raising ELs’ achievement and English language proficiency outcomes. Title III provisions have required states to

generate various data and performance information to potentially inform and motivate efforts to improve the education of ELs. Complexities in the way Title III performance information is calculated—and in the EL population itself—demand a careful look into the meaning behind the numbers. This brief explores some of those complexities while presenting the most recent data available on the nation’s school-age EL population

Highlights

- According to state reports, the 4.7 million students identified as ELs² in 2007–08 constituted about 10 percent of the nation’s K–12 student enrollment, and the vast majority of these students were receiving services in programs supported in part by Title III funds.
 - Looking more closely, ELs are unevenly distributed across states with larger proportions of ELs in southwestern states and higher rates of growth in several eastern states.
- Only 11 states met their state-level Title III performance goals, or Annual Measurable Achievement Objectives (AMAOs) for the 2007–08 school year, but at the district-level, 59 percent of Title III districts nationwide met their AMAOs that year.
 - However, variation and fluctuation in these state-defined performance goals make comparisons of performance across states and over time difficult.
- One-quarter of Title III districts had missed their AMAO performance goals for 2 or 4 consecutive years based on 2007–08 and prior years’ test results, subjecting them to such specific actions outlined in the law as developing an improvement plan, modifying their instructional program, or replacing educational personnel.
 - On one hand, an analysis of three states with complete data revealed that half of such districts were already facing accountability actions because they were identified for improvement under the Title I accountability provisions of *ESEA*. On the other hand, this analysis indicates that Title III accountability at least doubled the number of districts facing *ESEA*-related scrutiny to improve EL outcomes in these three states.

and on states' and districts' Title III accountability performance.

Introduction

The creation of Title III in the 2001 reauthorization of *ESEA* marked a new federal approach to supporting states and districts in providing high-quality instruction to meet the needs of ELs. Whereas Title VII of the former *ESEA* of 1994 provided funding for EL services through competitive grants, the new Title III introduced a system of formula-based grants allocated to states according to the size of their EL and immigrant student populations. States distribute these funds to subgrantee districts or consortia of districts,³ which use these monies to (1) enhance their Language Instruction Educational Programs (LIEPs) to improve ELs' English language proficiency and academic achievement in the content areas, and/or (2) provide professional development to strengthen teachers' ability to effectively instruct and assess ELs.

As a condition of receiving funds, Title III calls for heightened levels of accountability to ensure that states and districts are improving both

English language proficiency and academic achievement outcomes for greater numbers and percentages of ELs.⁴ This brief explores how states have implemented accountability measures and applied them to Title III-funded jurisdictions as of the 2007–08 school year. After examining the size and nature of the EL population targeted by Title III, this brief describes how states have defined annual performance goals, called Annual Measurable Achievement Objectives (AMAOs), mandated under Title III, and how states and districts are faring with regard to those goals. The brief also highlights some of the challenges inherent in interpreting states' and districts' accountability results.

The second in a three-part series, this brief builds on the discussion of Title III accountability featured in *Title III Policy: State of the States*, which provides an overview of how states have implemented each of Title III's major provisions. The third brief in this series, *Title III Accountability and District Improvement Efforts: A Closer Look*, explores how districts that have repeatedly missed their Title III performance goals are working to improve education outcomes among their ELs.⁵

Data Sources and Research Questions

This brief draws primarily from data reported by states in their Consolidated State Performance Reports (CSPRs) for 2004–05 through 2007–08. The CSPRs are annual reports required under *ESEA* that states use to submit information to the U.S. Department of Education about their activities and outcomes related to specific *ESEA* programs. The CSPR data reflect states' direct reports as of March 2009 and have not been validated by the U.S. Department of Education or other external parties. Other extant data sources for this brief include the Office of English Language Acquisition's (OELA) 2002–04 and 2004–06 Title III biennial reports (U.S. Department of Education, 2005; U.S. Department of Education, 2008a) data collections, state interview data collected in 2006–07 by the *State and Local Implementation of the No Child Left Behind Act, Volume IX—Accountability Under NCLB: Final Report* (U.S. Department of Education, 2010), ED Facts data reports⁶ from 2005–06 through 2007–08, and U.S. Department of Education's National Center for Education Statistics (NCES) Common Core of Data (CCD) for 2006–07. Additionally, in April through June of 2009, a review of state education agency Web sites and online policy documents was conducted to ascertain states' most recently released information on how states set their Title III Annual Measurable Achievement Objectives (AMAOs) and which districts missed their Title III AMAOs for 2 or more years. Analyses include data on all 50 states, the District of Columbia, and the districts within these states that receive Title III funds.

The research questions guiding this brief include:

1. How large and diverse is the nation's school-age EL population, and how is it distributed across states?
2. How do Title III AMAO targets and definitions vary across states?
3. Are states and Title III subgrantee districts meeting their AMAO targets?
4. What characteristics are associated with Title III subgrantee districts that repeatedly miss their AMAO targets?

What are the characteristics of the nation’s EL population?

One out of every 10 students in K–12 was identified as an EL in the 2007–08 school year.

According to Consolidated State Performance Reports, approximately 4.7 million, or 10 percent, of the nation’s students in K–12 were classified as ELs in 2007–08.⁷ Over 1.5 million of these students resided in the state of California alone, constituting nearly a quarter of the state’s entire K–12 enrollment. Other states with particularly large EL populations include Texas with close to 702,000 ELs, Florida with over 268,000 ELs, and New York with nearly 209,000 ELs. Additionally, Illinois, Arizona, and North Carolina each reported EL populations of between 100,000 and 200,000 students. Collectively, these seven states accounted for over 68 percent of the national K–12 EL population in 2007–08.

Although more than two-thirds of the nation’s ELs were located in this select group of states, the remainder of the population was considerably dispersed throughout the country. Indeed, nearly half of the states (24) reported sizable EL populations that fell between 20,000 and 100,000 students in 2007–08, as shown in Exhibit 1. Only five states—Maine, New Hampshire, Vermont, West Virginia, and Wyoming—reported EL populations of less than 5,000 students. This dispersal is perhaps more evident when states’ numbers of ELs are viewed relative to their total student enrollment.

Southwestern states tended to report the highest proportions of ELs, but more than half of the states reported EL proportions of at least 5 percent of their K–12 enrollment.

As Exhibit 2 illustrates, states in the western and southwestern United States—including

California, Nevada, Arizona, New Mexico, Texas, and Colorado—were likely to report the highest proportions of ELs in 2007–08.⁸ Alaska and Oregon also indicated that over 10 percent of their K–12 students were identified as ELs that year.

In all, 32 states and the District of Columbia reported EL proportions of at least 5 percent. Among the remaining 18 states, West Virginia and Mississippi reported the lowest proportion of ELs, indicating that approximately 1 percent of their K–12 enrollment was composed of ELs.

Whether their EL population is large or small, states and districts face challenges in meeting the needs of their EL students. Jurisdictions with large numbers or percentages of ELs may grapple with meeting the needs of ELs on a large scale but also may have a critical mass of ELs that makes provision of services a higher priority and more cost-effective than in areas with fewer ELs (Cosentino de Cohen, Deterding, and Clewell, 2005). States and districts with smaller numbers or percentages of ELs may have more isolated EL populations and more commonly have lower levels of infrastructure, expertise, and political priority for providing instruction suited to the unique needs of ELs. Jurisdictions with small and growing EL enrollments also may be more likely to employ a less coordinated or more ad hoc approach to serving ELs (Zehler et al., 2008; Short and Fitzsimmons, 2007; Ballantyne, Sanderman, and Levy, 2008).

Most states’ EL populations are chiefly Spanish-speaking, but ELs nationwide speak over 400 languages.

In the 2007–08 school year, most states (44) and the District of Columbia reported having predominantly Spanish-speaking EL populations, and nearly all states (49) and the District of Columbia included Spanish as one of their state’s top five EL home languages. Four states identified a Native American language as the

Exhibit 1: Students in K–12 Identified as EL, Total Number and as a Percentage of Total K–12 Enrollment, by State, 2007–08 School Year

State	Number of ELs Identified	Percent of Total Enrollment Identified as EL	State	Number of ELs Identified	Percent of Total Enrollment Identified as EL
Alabama	19,508	3%	Montana	6,270	5%
Alaska	15,879	12%	Nebraska	20,095	7%
Arizona	166,572	14%	Nevada	78,433	18%
Arkansas	26,003	6%	New Hampshire	3,292	2%
California	1,553,091	24%	New Jersey	54,503	4%
Colorado	82,347	11%	New Mexico	60,624	19%
Connecticut	30,713	6%	New York	208,848	8%
Delaware	6,831	6%	North Carolina	114,620	8%
District of Columbia*	5,165	7%	North Dakota	5,377	6%
Florida	268,207	10%	Ohio	38,026	2%
Georgia	79,894	5%	Oklahoma	37,744	6%
Hawaii	17,868	10%	Oregon	65,314	12%
Idaho	18,535	7%	Pennsylvania	46,357	3%
Illinois	175,454	9%	Rhode Island	7,427	5%
Indiana	46,417	4%	South Carolina	29,907	4%
Iowa	19,736	4%	South Dakota	5,745	5%
Kansas	34,630	8%	Tennessee	25,449	3%
Kentucky	12,919	2%	Texas	701,799	15%
Louisiana	12,534	2%	Utah	52,635	10%
Maine	4,606	2%	Vermont	1,741	2%
Maryland	41,593	5%	Virginia	89,968	7%
Massachusetts	48,966	5%	Washington	94,011	9%
Michigan	74,700	4%	West Virginia	1,615	1%
Minnesota	68,745	8%	Wisconsin	47,593	6%
Mississippi	5,428	1%	Wyoming	2,349	3%
Missouri	19,053	2%	Total	4,655,409	10%

Exhibit reads: In the 2007–08 school year, 19,508 students in K–12 were identified as EL in the state of Alabama and constituted 3 percent of the state’s total K–12 enrollment.

* The District of Columbia is included as a state.

Note: Tennessee data was updated based on a conversation with the state.

Source: Consolidated State Performance Reports, 2007–08 (n = 50 states and the District of Columbia).

most commonly spoken language among their ELs. Other language minority groups that were frequently listed among states’ top five include Vietnamese (31 states and the District of Columbia), Arabic (23 states), Chinese (22 states and the District of Columbia), Korean (10 states),

Russian (10 states), and Hmong (7 states).⁹ Furthermore, ELs across the nation speak over 400 different languages (National Clearinghouse for English Language Acquisition, 2002) indicating that while Spanish speakers account for the majority of ELs, states and districts must

Exhibit 3: Number of Title III Subgrantees and Number and Percentage of ELs Served in Programs Supported in Part by Title III Funds, by State, 2007–08 School Year

State	# of Subgrantees	# of ELs Served	% of ELs Served	State	# of Subgrantees	# of ELs Served	% of ELs Served
Alabama	53	16,881	87%	Montana	69	3,647	54%
Alaska	12	15,355	97%	Nebraska	23	19,022	95%
Arizona	217	161,783	97%	Nevada	9	78,433	100%
Arkansas	36	23,237	89%	New Hampshire	12	2,872	87%
California	628	1,526,036	98%	New Jersey	197	52,766	97%
Colorado	57	82,127	100%	New Mexico	57	59,879	99%
Connecticut	54	30,006	98%	New York	190	195,062	93%
Delaware	16	6,756	99%	North Carolina	85	113,011	99%
District of Columbia*	5	4,147	80%	North Dakota	9	2,577	48%
Florida	48	234,605	87%	Ohio	244	36,496	96%
Georgia	185	65,815	82%	Oklahoma	60	32,447	86%
Hawaii	1	17,868	100%	Oregon	61	56,546	87%
Idaho	37	16,524	90%	Pennsylvania	100	46,340	100%
Illinois	196	167,130	95%	Rhode Island	17	7,427	100%
Indiana	96	44,647	96%	South Carolina	44	27,244	91%
Iowa	12	19,736	100%	South Dakota	9	4,167	73%
Kansas	41	28,683	83%	Tennessee	60	25,482	99%
Kentucky	30	12,033	93%	Texas	1019	691,717	99%
Louisiana	24	12,534	100%	Utah	31	51,829	98%
Maine	12	3,907	85%	Vermont	11	1,119	64%
Maryland	23	41,570	100%	Virginia	102	89,505	99%
Massachusetts	57	46,378	95%	Washington	140	84,704	90%
Michigan	100	64,922	87%	West Virginia	24	1,211	75%
Minnesota	91	59,921	87%	Wisconsin	74	42,838	90%
Mississippi	23	4,664	86%	Wyoming	20	1,951	83%
Missouri	56	16,957	89%	Total	4,777	4,382,116	94%

Exhibit reads: In 2007–08, Alabama provided Title III subgrants to 53 districts and/or consortia. Eighty-seven percent of ELs in Alabama were served by programs funded in part by Title III.

* The District of Columbia is included as a state.

Note: Consolidated State Performance Report data 2007–08 for Tennessee and Florida data were updated based on conversations with the states.

Source: Consolidated State Performance Reports, 2007–08 ($n = 50$ states and the District of Columbia).

Instruction Educational Programs (LIEPs) funded in part by Title III (see Exhibit 3). Several factors may explain why the remaining students identified as ELs did not participate in Title III-funded programs each year. For example, they may have been enrolled in school districts that

did not receive Title III subgrants (e.g., districts with EL populations too small to qualify for the minimum subgrant amount that chose not to participate in a consortium), or their parents may have declined LEP services.

The number of ELs participating in programs funded in part by Title III increased 18 percent over the last 5 years.

Nationally, the number of ELs served by Title III-funded programs in K–12, increased 18 percent over the past 5-year period since the 2002–03 school year, from approximately 3.7 million ELs in 2002–03 to 4.4 million in 2007–08.^{12, 13} Rates of growth in Title III-served students varied dramatically across states. New York and South Carolina reported the largest rate of growth in Title III-served ELs over the last 5 years, indicating that over 200 percent more students were enrolled in Title III-supported programs in 2007–08 than in 2002–03. Arkansas, Delaware, Indiana, Maine, Montana, and Tennessee reported over 100 percent growth in their Title III-served ELs in that same time period.

In contrast, Alaska indicated that Title III-funded programs served 17 percent fewer ELs in 2007–08 than in 2002–03.

As illustrated in Exhibit 4, states that have traditionally had larger EL populations and, thus, may be more experienced in meeting their needs tended to report lower levels of growth in their numbers of ELs participating in Title III-supported programs between 2002–03 and 2007–08 than did states for whom these issues are relatively more recent. This finding is consistent with prior research that has identified a shift in immigration patterns away from traditional gateway states, like Florida, to other states over the last 15 years. (Cosentino de Cohen, Deterding, and Clewell, 2005; Batalova, Fix, and Murray, 2005; Short and Fitzsimmons, 2007).

Exhibit 4: Growth in the Number of ELs Served in Title III, 2003–2008

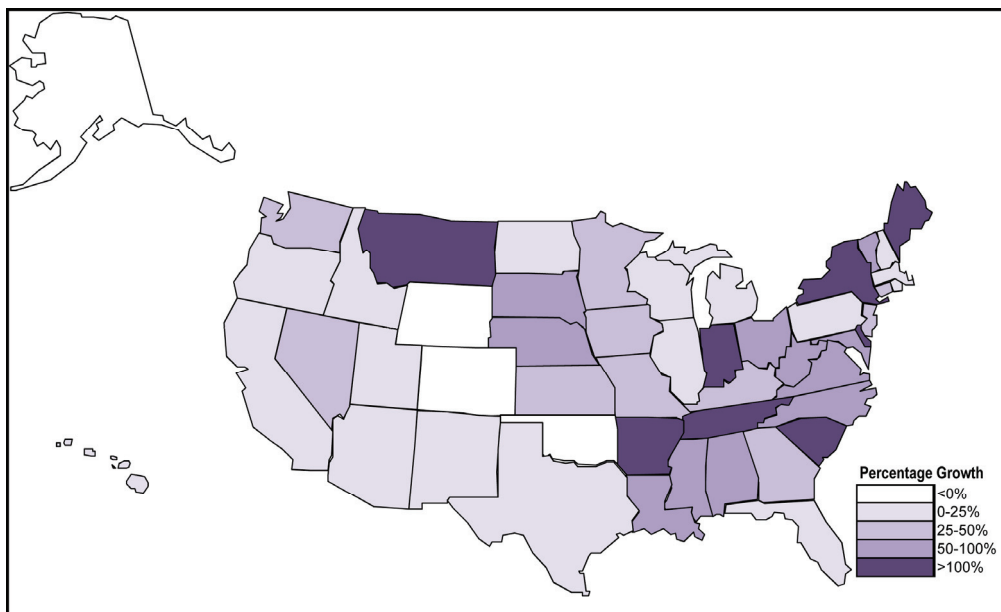


Exhibit Reads: States colored in the darkest shade of purple reported an increase of over 100 percent in the number of ELs participating in programs supported by Title III between the 2002–03 and 2007–08 school years.

Sources: Consolidated State Performance Reports, 2007–08 and data collected for the *Biennial Report to Congress on the Implementation of the Title III State Formula Grant Program, School Years 2002–2004* (U.S. Department of Education, 2005). (n = 50 states and the District of Columbia)

How does Title III hold states and districts accountable for improving the education of ELs?

Annual Title III performance goals track improvements in ELs' English language development as well as their academic achievement.

Title III, Section 3122(a), requires states to institute new standards-based accountability measures for monitoring state and district performance in supporting ELs' "development and attainment of English proficiency while meeting challenging State academic content and student academic achievement standards." Specifically, the law calls for states to establish a set of three Annual Measurable Achievement Objectives (AMAOs):

- ◆ AMAO 1—Annual increases in the number or percentage of children **making progress in learning English**;
- ◆ AMAO 2—Annual increases in the number or percentage of children **attaining English proficiency**; and
- ◆ AMAO 3—Making **adequate yearly progress (AYP)** for limited English proficient children as described in Title I, Section 1111(b)(2)(B), of *ESEA*.

AMAOs are calculated at both the state and district level, and states and districts that receive Title III funds must satisfy all three objectives to qualify as meeting their AMAOs in a given year. States must determine AMAO performance results annually and report this information to Title III subgrantee districts and consortia of districts as well as to the U.S. Department of Education. Subgrantee districts and consortia that miss their AMAOs must in turn notify parents of Title III-served ELs of their AMAO performance. Districts and consortia that miss their AMAOs for 2 or 4 consecutive years face additional consequences, such as implementing

an improvement plan and, for those that miss for 4 consecutive years, undergoing programmatic, staffing, and/or funding adjustments. (For further discussion of these consequences, see the "What happens when districts miss their AMAO targets?" section of the companion brief *Title III Policy: State of the States*.)

Under Title III, states define their own annual performance goals (AMAOs).

For AMAOs 1 and 2, states have discretion to define what constitutes "making progress" and "attaining proficiency" and to establish annual targets for each AMAO, provided that their definitions and targets comply with criteria specified in Section 3122 of Title III. As part of their Title I accountability procedures, states also define adequate yearly progress for AMAO 3 according to parameters specified in Section 1111 of *ESEA* and in the Department of Education's Title I regulations and policy guidance (see text box, "ELs and Title I Accountability" on page 9).¹⁴

Section 3122 of Title III requires that states' AMAOs:

- ◆ Reflect the amount of time an EL has been enrolled in a language instruction educational program (LIEP).
- ◆ Include targets that call for annual increases in the number or percentage of children making progress in learning English and annual increases in the number or percentage of children attaining English language proficiency. These data must be determined through consistent methods and measurements, including a valid and reliable assessment of English language proficiency.
- ◆ Include the targets set under Title I for making adequate yearly progress with respect to ELs on assessments in the academic content areas as the third AMAO target.¹⁵

How have states set their annual performance goals—or AMAOs—under Title III?

Setting annual measurable achievement objectives (AMAOs) has been a challenge for states. States initially set their AMAOs using the provisions of the law without detailed guidance from the Department, using a mixture of existing data on proficiency levels of their ELs, research, and guesswork about how long it takes ELs to become proficient in academic English (Zehr, 2003).

States also faced challenges in implementing ELP standards that were aligned with state academic content standards and valid and reliable ELP assessments, both of which are essential in determining valid and reasonable growth targets.

Indeed, prior to the 2001 *ESEA* reauthorization, most states used ELP assessments that were developed for placement purposes and were inappropriate for measuring growth in language acquisition as required by Title III. States that had no prior ELP assessment had to adopt an interim test that would assess EL students annually while working on the development of assessments that were in line with Title III requirements, most of which took several years to develop. For further

discussion of the challenges states encountered in developing and implementing Title III AMAOs, see the companion brief, *Title III Policy: State of the States*.

Most states have revised their Title III AMAOs since instituting them in 2003, making it difficult to compare AMAO performance results over time.

By the 2007–08 school year, all states and the District of Columbia had established a set of AMAOs, though most had revised or anticipated revising their AMAOs in the future (see the companion brief *Title III Policy: State of the States*). In recent years, AMAOs have increasingly undergone revision as states can now look at several years of data to develop more valid performance targets. AMAOs in many states also are undergoing revision in response to the Department of Education’s October 2008 *Notice of Final Interpretations (NOFI)* (U.S. Department of Education, 2008b), which clarified the Department’s interpretation of several key Title III provisions, including those related to AMAOs. To allow states a transition period for aligning their AMAOs with the *NOFI*’s new guidelines (U.S. Department of Education, 2008b), the Department gave states until the time for AMAO determinations made based on the state English language proficiency assessments administered in the 2009–10 school year to comply. As of June

ELs and Title I Accountability

Title I, Part A, of the *No Child Left Behind Act* holds states, districts, and schools accountable for making **Adequate Yearly Progress (AYP)** in the numbers or percentages of students meeting state standards for grade-level proficiency in the content areas.

Determinations of AYP under Title I involve meeting state-defined objectives, including students’ performance on state content assessments in reading and math, students’ rates of participation in state content assessments in reading and math, and other such academic indicators as attendance and graduation rates.

States, districts, and schools must meet their AYP objectives for all indicators both across all students and for each student subgroup outlined in Title I, including one subgroup comprised of ELLs. Individual ELLs also may fall under additional Title I accountability subgroups, including those for low-income students, racial minorities, and students with disabilities.

Schools and districts incur specific consequences according to the number of consecutive years they fail to make AYP.

2009, eight states had submitted AMAO amendments that had been approved by the Department (U.S. Department of Education, personal communication, July 7, 2009).

Both numeric AMAO targets and the definitions of “progress” and “proficiency” have varied dramatically across states since Title III has been in place. The next section describes the variation across states in AMAOs 1, 2, and 3, respectively, based on available 2007–08 state documentation. The analyses examine variation in numeric targets and in the definitions of the key terms—such as “progress” and “proficiency”—that lie beneath the numbers.

AMAO 1: States used a variety of approaches for determining whether more ELs are “making progress in learning English.”

Variation in Targets

Almost all states (43 of the 45 with available target information) set targets in the form of a percentage of ELs who made progress in learning English from one year to the next

(exceptions included Maine and Nebraska, which used point systems that account for the number of ELs achieving at various levels on the state EL assessment and, thus, set targets in the form of number of points). Among the states using percentages, AMAO 1 targets in 2007–08 ranged from 20 percent in Kansas and New Mexico to 85 percent in Illinois. In other words, Kansas required that 20 percent of EL students in Title III subgrantee districts demonstrate progress in learning English each year, while Illinois required 85 percent of EL students in Title III subgrantee districts to do so. This wide range of expected percentages of progress could be viewed as a reflection of the extent to which states have set more or less challenging targets for their percentage of ELs making progress; however, the numeric targets are impossible to assess without understanding the variation across states regarding the definition of the term “making progress.”

Variation in Definitions

State definitions of what constituted “making progress in learning English” and how these definitions were applied to specific sets of

Exhibit 5. Time Line of Policy Actions Related to States’ Implementation of Title III Accountability

Date	Policy Action
2001	The reauthorization of the <i>Elementary and Secondary Education Act (ESEA)</i> , the <i>No Child Left Behind Act</i> , is signed into law.
February 2003	The U.S. Department of Education (the Department) releases nonregulatory guidance to clarify requirements for Title III accountability.
June 2003	The Department finishes reviewing and approving all state plans for Title III implementation. States seeking to revise their Title III accountability procedures are permitted to submit amendments to the Department for review and approval.
2003–04 school year	States are required to begin reporting Annual Measurable Achievement Objectives (AMAO) determinations and holding districts accountable for their AMAO performance.
2005	The Department institutes a system of monitoring visits to oversee states’ implementation of Title III provisions.
2007	Based on findings from Title III monitoring visits, the Department places special conditions on 22 states’ 2007 Title III grant awards for failure to make accurate AMAO determinations for prior school years. the Department requires these states to submit corrective action plans detailing how they will make AMAO determinations for those prior years and allows states the option of using a minimum of AMAO 3 if states are unable to calculate AMAOs 1 and/or 2.
October 2008	The Department issues a <i>Notice of Final Interpretations</i> (U.S. Department of Education, 2008b) outlining the Department’s interpretation of specific Title III requirements, including those related to Title III accountability.
2009–10 school year	States’ AMAO targets and definitions are required to be consistent with the Department’s <i>Notice of Final Interpretations</i> (U.S. Department of Education, 2008b), effective with the AMAO determinations made based on the state English language proficiency assessments administered in 2009–10.

Note: AMAO—Annual Measurable Achievement Objective

students for AMAO 1 varied on several dimensions, according to state policy documents released as of spring 2009.

- ◆ States used different ELP assessments, which used different scoring scales, and information regarding the comparability of these assessments is not currently available (Abedi, 2007).
- ◆ Half of states with sufficient documentation for classification (17 out of 34) defined progress as moving up at least *one* level on the ELP assessment from one year to the next; in the 17 other states with sufficient documentation, *less than* one level constituted progress (however, one level does not mean the same amount of learning on different assessments).
- ◆ Some states (at least six of 39 states with sufficient documentation for this classification) considered AMAO 1 met if progress was made in *any* of the domains of the ELP assessment (e.g., reading, writing, listening, or speaking); most states (at least 30) required progress based on a *composite score or average* across the domains; still other states (at least three) required progress in *each* of the domains.
- ◆ Most states (24 of 39 with adequate information) set a single *undifferentiated* target percentage for AMAO 1; another 15 states set *differentiated* target percentages that take into account the students' years in program, grade level, or previous proficiency level.¹⁶
- ◆ Most states (34 of 37 with sufficient information) calculated progress only on those ELs with ELP assessment scores for both the prior year and the current year (i.e., longitudinal data), while a few (at least three) states included more ELs but are not

able to compare an individual student's score from one year to the next. The states in the latter category were using "consecutive cross sections," comparing the performance of one year's ELs with the performance of the following year's ELs.

- ◆ Seventeen states explicitly included *students who moved from scoring below proficient to scoring at or above the proficient level* in the percentage of students making progress, thereby giving credit for students who "made progress" and, in so doing, met the requirements for "attaining English language proficiency." Three other states indicated that they only included those students in AMAO 2 calculations. Policy documents for the remaining 31 states did not explicitly address this issue.
- ◆ Two states explicitly included *former limited English proficient students* (i.e., ELs who have exited EL services). Five states explicitly excluded *former limited English proficient students*, but 44 states did not specify in their policy documents whether these students were included in AMAO 1.
- ◆ At least 14 states explicitly stated that they use *methods to ensure the validity and reliability of AMAO determinations* similar to those used in the calculation of AYP (e.g., inclusion only of students who were present for a full academic year, required minimum number of students in a district for AMAO calculation, use of confidence intervals),¹⁷ while other states' policy documents did not explicitly mention the use of such adjustments.

Depending on where the state's definition falls, within these dimensions, specific numeric targets were harder or easier to meet.

AMAO 2: States also differed in how they determined whether more ELs were “attaining English language proficiency.”

Variation in Targets

AMAO 2 targets in 2007–08 ranged from a goal of 0.5 percent of ELs attaining English language proficiency in South Carolina to a goal of 70 percent of ELs attaining proficiency in New Jersey. In other words, in 2007–08 for a Title III subgrantee district with 200 ELs, South Carolina required the district to demonstrate that at least 1 of the 200 ELs “attained English proficiency” and New Jersey required that the district demonstrate that at least 140 of the 200 ELs had done so. Typically, states set the target percentage expected to attain English language proficiency for AMAO 2 lower than the target percentage expected to make progress in learning English for AMAO 1. Again, these numeric targets are impossible to assess without understanding the variation across states in the definition of the term “attaining English language proficiency.”

Variation in Definitions

Most states (36 of the 45 states with sufficient documentation) defined “attaining English language proficiency” as earning an ELP test composite (sometimes weighted)¹⁸ scoring level variably labeled as “proficient,” “transitional,” or a numbered level representing one of the higher levels on the test scale (e.g., a 4 or higher on a scale of 1 to 6). At least nine other states further required that a student have earned a nearly proficient or proficient score on each separate domain, thereby ensuring that the composite score does not conceal a significant weakness in one of the domains. Of course, states use different ELP assessments, which use different scales and scoring-level cut points and presumably vary in difficulty. Even among states using the same assessment, state documents indicate variation in the scoring level defined as proficient for the purpose of AMAO 2. For

example, “proficient” was defined as 6.0 in Wisconsin, 5.0–6.0 in the District of Columbia, and 4.8–6.0 in Alabama all on the same Assessing Comprehension and Communication in English State-to-State for English Language Learners (ACCESS for ELLs) assessment.

Another key way that states differed is whether they calculated AMAO 2 performance based on an undifferentiated population of all Title III-served students or accounted for students’ differing likelihoods of attaining English language proficiency. In 2007–08, 16 of the 43 states with sufficient documentation accounted for students’ differing likelihoods of attaining proficiency by either including only the subset of students who could reasonably be expected to reach proficiency in the current year or by differentiating the target percentages for different cohorts defined by student characteristics. The *Notice of Final Interpretations* issued in 2008 (U.S. Department of Education, 2008b), makes clear that exclusions based on student characteristics such as age, grade level, proficiency level, or length of time in the United States is not permitted; the only permissible basis for establishing cohorts is the “amount of time (for example, number of years) such students have had access to language instruction educational programs.”

Two further approaches that differentiate the meaning of “attaining proficiency” across states are the use of Title I EL subgroup exit criteria and the use of multiple attainment indicators. In 2007–08, only 13 states mentioned exit criteria in their AMAO 2 definitions. Of those states, six states explicitly used the same definition for “attaining proficiency” for AMAO 2 under Title III as for exiting students out of the EL subgroup for Title I accountability, and seven states indicated that attaining proficiency for AMAO 2 was not the same as the criteria for exiting EL subgroup status. In the 2008 *Notice of Final Interpretations*, the Department has encouraged states to use their Title I EL subgroup exit criteria

for determining whether students had “attained proficiency” for the purpose of AMAO 2.

At least four states (Georgia, Indiana, Ohio, Texas) use two ELP attainment indicators such that if a subgrantee meets either the first or the second standard then the subgrantee meets AMAO 2. For example, Georgia has defined proficiency as obtaining a composite score of 5.0 or higher on the state ELP assessment as its first attainment indicator for AMAO 2. But, because some ELs who score less than 5.0 on the ELP assessment may qualify to exit EL services via a language assessment committee, Georgia evaluates whether the district exceeded the state average percentage of ELs who exited as a second attainment indicator for AMAO 2. If a subgrantee does not meet the first attainment indicator but is above the state average on the second indicator, it is identified as having met AMAO 2.

AMAO 3: Making AYP for the EL subgroup has little common meaning across states.

Variation in Targets

The simple targets for percentage proficient in reading and mathematics for the EL subgroup that states set for AMAO 3 belie the complexity of the underlying calculation of adequate yearly progress (AYP) (e.g., inclusion of students in subgroup, reliability adjustments, growth models) (see U.S. Department of Education, 2010). Those simple percentage proficient targets also differ by subject and by grade level; just looking only at eighth-grade mathematics, the targets in 2007–08 ranged from 33 percent in Maine to 86 percent in Tennessee.

Variation in Definitions

Because states establish academic content area achievement standards for proficiency relative to their content standards and assessments,

“proficiency” can, and does, vary from state to state.¹⁹

One way to measure the amount of variation in proficiency standards is to compare each state’s test against a common external benchmark. The only benchmark available across all states is the National Assessment of Educational Progress (NAEP). An analysis examined how state proficiency levels in reading and mathematics for grades 4 and 8 varied against this common metric (National Center for Education Statistics, 2007a; National Center for Education Statistics, 2007b).

States varied widely in the levels at which they set their state performance standards in reading and mathematics, when compared to the common standard, NAEP. Using NAEP as a common external metric, state standards for proficiency in eighth-grade mathematics under *NCLB* range from a NAEP equivalent score of approximately 230 to 311 (on a 500-point scale). Similar patterns occurred in fourth-grade mathematics and in reading at both grade levels. As a result, an EL deemed to be proficient in the content areas in one state might not be considered proficient in another state, and cross-state comparisons and nationwide estimates of the percentage of students who are proficient must be interpreted with caution.

This variation in academic achievement standards should be taken into account in any examination of state variation in the numbers and percentages of districts or schools that make or do not make AYP or are identified for improvement.

States may determine performance of the EL subgroup differently for Title III AMAO 3 than they do for Title I AYP.

In many instances, states use the same AYP results determined through their Title I

accountability system for Title III AMAO 3 and were encouraged to do so under the Department's *Notice of Final Interpretations*, (U.S. Department of Education, 2008b). However, states were granted the flexibility to calculate a separate AMAO 3 determination solely for students who are served under Title III.²⁰ Accordingly, in their AMAO 3 calculations, states might choose to only include ELs in districts receiving Title III subgrants and/or only include individual ELs who receive Title III-funded services.

Districts that belong to Title III consortia also may receive an AMAO 3 determination that differs from their Title I AYP for the EL subgroup determination if their state opts to calculate AMAOs for the Title III consortium as a whole rather than for individual districts within the consortium. In such cases, consortia districts' AMAO 3 determination depends on the performance of ELs in the other districts within their consortium and so, EL proficiency scores in lower-performing districts might be pulled up by scores from the consortium's higher-performing districts, or vice-versa. Furthermore, because districts within Title III consortia tend to have smaller EL populations, they may not have enough ELs on their own to qualify for a Title I AYP for the EL subgroup determination (i.e., because they do not meet their state's minimum n size²¹ for Title I) but still qualify for a Title III AMAO 3 determination when they are grouped together with the other districts in their consortium.

Are states and districts meeting their annual performance goals for Title III?

Most states did not meet their state-level Title III performance goals for 2007–2008, but at the district level, more than half the districts nationwide did.

For the 2007–08 school year, only 11 states met all of their AMAOs. These 11 states varied widely in their AMAO targets and represent diverse EL populations. This set of 11 include states with large numbers of ELs (Texas and New York); states with moderate to high density EL populations (Nevada, New Jersey, Wisconsin); states with moderate EL populations (5–10 percent); states with growing EL populations (Tennessee, Alabama, Maryland, Michigan, Virginia, Wisconsin); and West Virginia, a state with a small number and low percentage of ELs.

According to state reports, 59 percent of subgrantee districts and consortia across the nation met all of their AMAOs in 2007–08.²² States with larger numbers of Title III subgrantees (e.g., Texas, which reported having 1,019 subgrantees in 2007–08)²³ contribute more heavily to the national percentage and often had a proportion of districts that met all AMAOs higher than the national average. For example, of the 2,740 subgrantees that met all of their AMAOs in 2007–08, 1,005 of them were located in the state of Texas alone.²⁴

As Exhibit 6 shows, subgrantees were more likely to meet individual AMAOs than to meet all AMAOs.²⁵ Comparing subgrantees' performance across the three individual AMAOs, states reported that nationwide, fewer subgrantees met AMAO 3 than met AMAOs 1 or 2 (70 percent, compared with 85 and 80 percent, respectively) in 2007–08. Similar patterns emerge when examining subgrantee performance by state. Most states reported that at least half of their subgrantees met AMAOs 1 and 2 (40 states and the District of Columbia and 39 states and the District of Columbia, respectively) while noticeably fewer (31 states) reported that at least half of their subgrantees met AMAO 3. Meeting *all* AMAOs was more challenging: Only 25 states reported that at least half of their subgrantees met all of their AMAOs in 2007–08. Nine states reported that none of their subgrantees met all AMAOs, while only four states—Maryland, Nevada, West Virginia, and Wisconsin—reported that all of their subgrantees met all AMAOs in 2007–08.

One-quarter of Title III subgrantees were designated as missing AMAOs for 2 or 4 years consecutively based on the 2007–08 school year and prior years' test results.

If a state designates that a Title III subgrantee has not met its AMAOs for 2 consecutive years, the district or consortium must develop an improvement plan with support from the state. If the subgrantee has not met AMAOs for 4 consecutive years, the state must require the district or consortium to modify its curriculum, program, and method of instruction or assess whether the district will receive additional funds and be required to replace educational personnel relevant to not meeting these objectives.

According to state reports, approximately 17 percent of Title III subgrantees had missed AMAOs for 2 consecutive years based on 2007–08 and prior years' test results.²⁶ At the

Exhibit 6: Percentage of Title III Subgrantees That Met Their AMAOs for the 2007–08 School Year

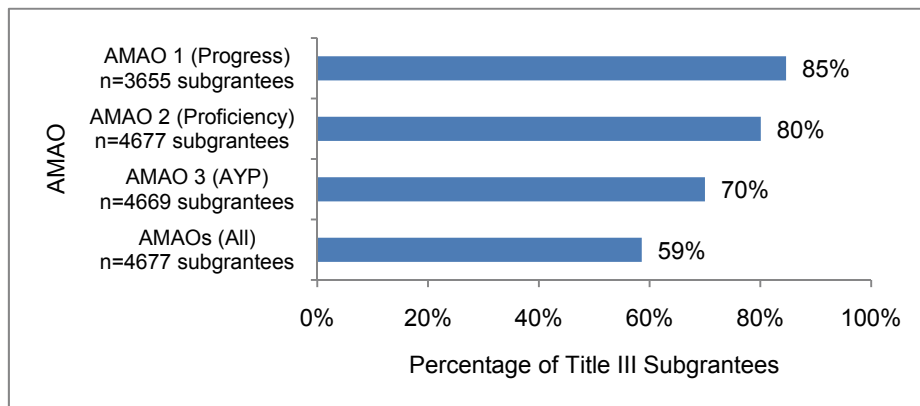


Exhibit reads: According to state reports, 85 percent of Title III subgrantees nationwide met AMAO 1 at the end of the 2007–08 school year.

Notes: 1. Pennsylvania's 100 subgrantees are not included in these analyses as the state did not report AMAO performance data for 2007–08. 2. Texas's 1,019 subgrantees are not included in the analysis of AMAO 1 as the state did not report AMAO 1 performance information for 2007–08. 3. Three Massachusetts subgrantees are not included in the analysis of AMAO 1 because they lacked the 2 years of performance data needed for the state to make an AMAO determination. 4. Eight Vermont subgrantees are not included in the analysis of AMAO 3 because they did not meet the minimum "n" size (40) for making AYP determinations under the state's Title I Accountability Workbook rules.

Source: Consolidated State Performance Reports, 2007–08 (n =3,655 to 4,677 subgrantees)

Exhibit 7: Number of States in Which Various Proportions of Subgrantees Missed AMAOs for 2 or 4 Consecutive Years, at the End of the 2007–08 School Year

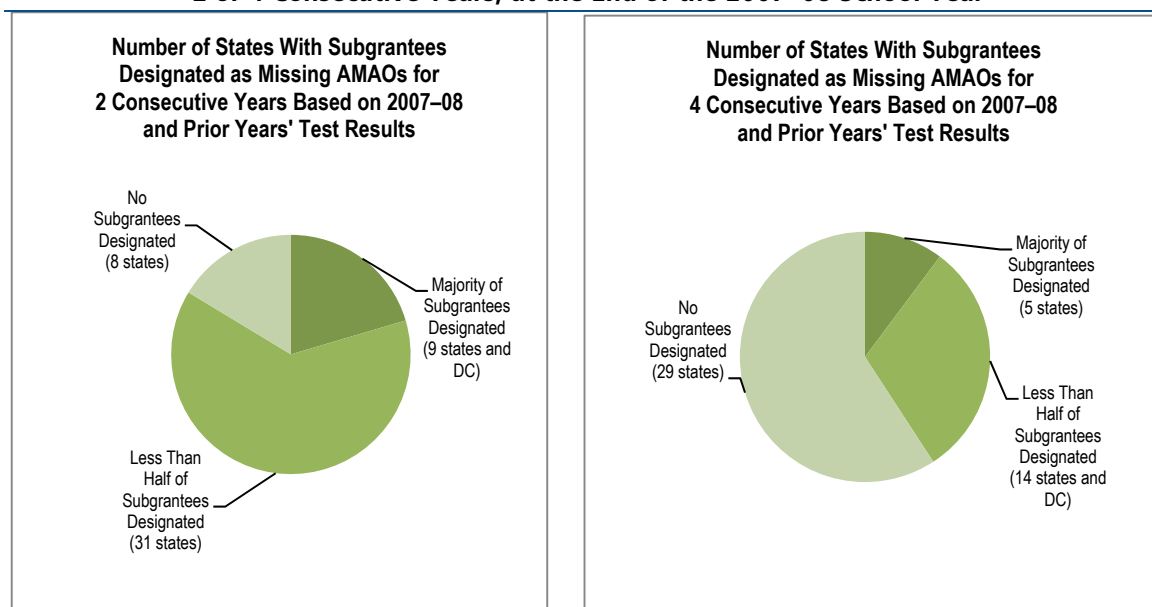


Exhibit reads: Nine states and the District of Columbia reported that a majority (half or more) of their Title III subgrantees were designated as missing their AMAOs for 2 consecutive years based on 2007–08 and prior years' test results.

Notes: 1. Pennsylvania and Missouri are not included in these analyses as these states did not report data on the number of Title III subgrantees that missed AMAOs for 2 or 4 consecutive years based on 2007–08 and prior years' test results. 2. In 2007–08, the District of Columbia reported having five Title III subgrantees, including charter schools.

Source: Consolidated State Performance Reports, 2007–08 (n = 48 states and the District of Columbia)

same point in time, about 9 percent of Title III subgrantees had missed AMAOs for 4 consecutive years.²⁷

Over 40 states and the District of Columbia²⁸ reported that at least one of their Title III subgrantees had missed AMAOs for 2 consecutive years based on 2007–08 and prior years' test results. Nineteen states and the District of Columbia reported that at least one subgrantee had missed AMAOs for 4 consecutive years at that time (see Exhibit 7). While these subgrantees became subject to the

accountability actions described above, it is unclear whether all states have applied such actions to these subgrantees. *State and Local Implementation of the No Child Left Behind Act, Volume IX—Accountability Under NCLB: Final Report* (U.S. Department of Education, 2010) found that, as of 2006–07, 19 states were not yet imposing accountability actions due to delays in their development of ELP standards, assessments, and AMAOs and concerns over the validity of their AMAO determinations, but intended to do so once they had accurate data.

What types of subgrantees are designated as repeatedly missing their annual performance goals for Title III?

In a 4-state sample, subgrantees with high proportions of ELs were most likely to have been designated as having missed AMAOs for 2 or more consecutive years under Title III based on the 2007–08 school year and prior years' test results. In three out of four states sampled, high-poverty, high-minority, and urban subgrantees were also more likely to have been designated.

Based on an analysis of 4 states (see methodology text box below for how states were determined), Title III subgrantees with higher proportions of EL, low-income, and minority students were often more likely to be designated²⁹ as having missed AMAOs for 2 or more consecutive years than subgrantees with lower proportions of such students. As illustrated in Exhibit 8:

- ◆ In all four states, larger percentages of Title III subgrantees with high proportions of ELs were designated under Title III, compared with Title III subgrantees with low to medium proportions of ELs.
- ◆ In Arizona, California, and New York, larger percentages of high-poverty subgrantees were designated under Title III than were low-poverty subgrantees. Larger proportions of high-minority subgrantees were designated under Title III in those three states as well.
- ◆ In Arizona, New York, and North Carolina, Title III subgrantees located in central cities were more likely to be designated than were their counterparts in suburban or rural areas.

In an analysis of three states, half of subgrantee districts designated under Title III also were identified for improvement under Title I based on 2007–08 school year and prior years' test results.

Much of the attention focused on *NCLB* has been centered on the accountability provisions under Title I, *NCLB*'s largest program (U.S. Department of Education, 2010). Analyses were conducted to examine whether Title III subgrantees were designated at the district level under both Title I and Title III accountability provisions, Title I accountability provisions only, or Title III accountability provisions only.

Fifty percent of subgrantees designated under Title III (192 of 385) also were identified for improvement under Title I at the district level based on the 2007–08 school year and prior years' test results in the three states analyzed³⁰ (see Exhibit 9). The law requires states to apply consequences and provide supports to these subgrantees under both accountability systems. Without Title III accountability, the remaining 50 percent of subgrantees (193 of 385) designated under Title III would not have encountered the pressure and support potentially generated by accountability consequences at the district level. A supplementary analysis of these 193 subgrantees that were designated only under Title III indicated that many of the subgrantee districts did experience Title I accountability *at the school level*, though not necessarily for their EL subgroup. Specifically, in 33 percent of these subgrantee districts, a majority of Title I schools were identified for improvement under Title I, and 60 percent of these subgrantee districts had at least one school identified for improvement under Title I. Supplementary analyses also revealed that the subgrantee districts designated only under Title III were disproportionately small and rural.³¹

Exhibit 8: Percentage of Title III Subgrantees in Four States That Were Designated As Having Missed Their AMAOs for 2 or More Consecutive Years, by State and by Subgrantee EL Level, Poverty Level, Minority Level, Urbanicity, and Subgrantee Size, 2008–09 School Year

Level	Arizona	California	New York	North Carolina
Total Subgrantees	59%	39%	17%	45%
Subgrantee EL Level				
5 percent or greater EL	67%	43%	23%	55%
0 to <5 percent EL	41%	9%	9%	34%
Subgrantee Poverty Level				
75 percent or greater poverty	71%	59%	55%	50%*
35 to <75 percent poverty	54%	43%	20%	44%
0 to <35 percent poverty	60%	14%	7%	50%
Subgrantee Minority Level				
75 percent or greater minority	73%	49%	24%	0%*
25 to <75 percent minority	51%	31%	21%	48%
0 to <25 percent minority	41%	16%	5%	43%
Urbanicity				
Central city	68%	33%	33%	67%
Urban fringe	60%	40%	11%	47%
Rural	49%	51%	10%	39%
Subgrantee Size				
More than 10,000 students	88%	35%	26%	55%
2,500 to 10,000 students	67%	36%	11%	32%
Less than 2,500 students	50%	46%	23%	100%*

Exhibit reads: Fifty-nine percent of Arizona subgrantees were designated as missing their AMAOs for two or more consecutive years under Title III based on 2007–08 and prior years’ test results. Sixty-seven percent of Arizona subgrantees with EL populations of five percent or greater were designated as missing their AMAOs for two or more consecutive years under Title III based on 2007–08 and prior years’ test results.

Note: *means $n < 10$ Title III subgrantees

Source: U.S. Department of Education’s National Center for Education Statistics (NCES) Common Core of Data (CCD), *EDFacts*⁶; state lists of Title III designation status ($n = 215$ Title III subgrantees in Arizona; 622 Title III subgrantees in California; 62 Title III subgrantees in North Carolina; and 190 Title III subgrantees in New York).

Implications

Literature on accountability tells us that for a results-based accountability system to function as intended, it must focus attention on goals, enhance the availability of valid information on which to base decisions, increase motivation to strive for goals, and build and focus capacity to improve³² (Fuhrman, 1999; Goertz, Floden, and O’Day, 1995; O’Day and Bitter, 2002). Title III provisions aim to serve these functions by requiring states to institute annual performance objectives, report regularly on school systems’ performance in meeting those objectives, and

impose consequences on jurisdictions that miss their objectives.

Consistent with the spirit behind the *Elementary and Secondary Education Act*, as amended by the *No Child Left Behind Act*, Title III accountability provisions have shone a spotlight on the nation’s ELs in order to promote state and local efforts to improve education outcomes for this diverse and traditionally underserved population of students. Based on an analysis of a small subset of states, Title III accountability has focused attention on these students by designating an additional set of districts that were not identified for

Methodology for Analysis of Title III Subgrantees Designated as Missing AMAOs for 2 or More Years

Analyses to examine the characteristics of Title III subgrantees designated as missing AMAOs for 2 or more years under Title III were conducted on a subset of four states: Arizona, California, New York, and North Carolina. These states were selected from a set of nine states with available data to ensure variation in regional location and an adequate number of Title III-designated districts within each state to perform state-level analyses. National-level analyses were not feasible, due to the lack of completeness of 2006–07 and 2007–08 Title III-related data provided by state education officials through *EDFacts*⁶, a centralized data warehouse established by the U.S. Department of Education that features performance, financial, and other data—including Consolidated State Performance Reports (CSPRs) information—reported by state education agencies (SEAs), local education agencies (LEAs) and schools. In 2007–08, several new data elements were first required to be reported in *EDFacts*. Future data will be more complete and allow further analyses.

For Arizona, California, and New York, the Title III designation status (i.e., whether or not a subgrantee had missed its AMAOs for two or more consecutive years based on 2007–08 and prior years' test results) was collected for all 2007–08 Title III subgrantees from data located on state education agency Web sites or provided by state education officials. For North Carolina, the population of Title III subgrantees was constructed through data provided by state education officials through *EDFacts*⁶—specifically, the number of districts in 2007–08 for which states reported AMAO 1 and/or AMAO 2 as “met” or “did not meet” (North Carolina did not report data for AMAO 3 in 2007–08). Subgrantees designated under Title III were determined through extant data collected from the state Title III director in spring 2009. The resulting dataset contains:

- **Arizona:** 215 Title III subgrantees;
- **California:** 622 Title III subgrantees, including 56 charter schools that are not their own LEA according to the U.S. Department of Education's National Center for Education Statistics (NCES) Common Core of Data (CCD);
- **New York:** 190 Title III subgrantees; and
- **North Carolina:** 62 Title III subgrantees.

The dataset does not include two Title III subgrantees in Arizona and six subgrantees in California that were districts that did not exist prior to 2007–08. The dataset does not include demographic information on these subgrantees as they were not included in the NCES CCD for 2006–07.

Demographics and Title I accountability information were collected through the U.S. Department of Education's National Center for Education Statistics (NCES) Common Core of Data (CCD) for 2006–07 and *EDFacts* data for 2007–08, respectively.

improvement under the Title I accountability system, thereby nearly doubling the number of EL-serving districts facing accountability consequences during the 2008–09 school year.

However, several factors regarding states' implementation of Title III accountability provisions may have interfered with the effective operation of the Title III accountability system to date. For example, differences in how states have set their AMAO targets and definitions inhibit states' ability to compare their performance against other states. Furthermore, because states have frequently revised the manner in which their AMAOs are defined

and/or calculated, it has been difficult up to this point for states and districts to assess their performance over time since the criteria for meeting their performance goals may be significantly different from year to year. Plus, as a result of the delays in finalizing valid AMAOs, some states were delayed in imposing consequences on districts for not meeting AMAO targets. This lack of stability, consistency, and transparency surrounding the implementation of Title III performance objectives raises concerns that states' Title III accountability systems may not be effectively informing and motivating improvement at this time.

Exhibit 9: Number of Title III Subgrantee Districts in Three States That Were Identified for Improvement Under Title I and/or Designated Under Title III Based on the 2007–08 School Year and Prior Years’ Test Results

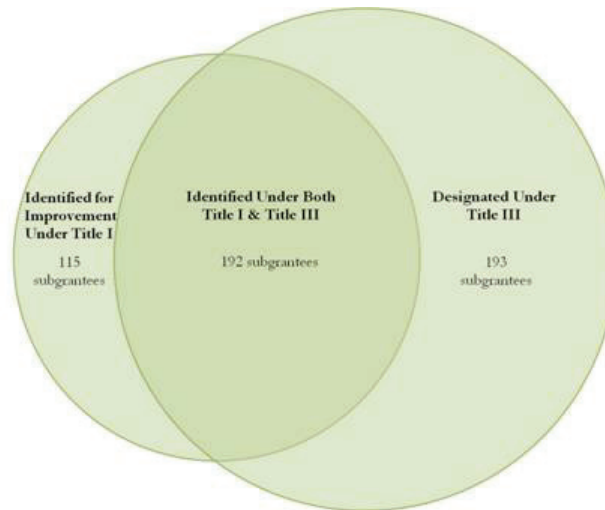


Exhibit reads: Based on 2007–08 and prior years’ test results, 115 Title III subgrantee districts in three states were identified for improvement under Title I, but were not designated under Title III.

Notes: 1. Title I improvement status data based on 2007–08 and prior years’ test results were not available for New York. 2. The 56 California charter schools that, according to the U.S. Department of Education’s National Center for Education Statistics (NCES) Common Core of Data (CCD), are not their own local education agency (LEA) but are affiliated with other LEAs were excluded from the analysis.

Source: ED Facts⁶ ($n = 500$ Title III districts that were designated under Title I and/or Title III accountability systems in Arizona, California, and North Carolina for 500 districts in these states).

National Evaluation of Title III Implementation

This brief and its two companion briefs, *Title III Policy: State of the States* and *Title III Accountability and District Improvement Efforts: A Closer Look*, were written during the early stage of the *National Evaluation of Title III Implementation*, a U.S.

Department of Education study being conducted by the American Institutes for Research. These three briefs are precursors to the collection and analysis of nationally representative data and in-depth case study data of Title III-funded districts to examine state and local implementation of Title II standards, assessments, and accountability systems under that evaluation.

The *National Evaluation of Title III Implementation* will provide more in-depth explorations of some of the issues presented in this brief, including analyses regarding

- The procedures and considerations guiding states' development and revision of their AMAO targets and definitions;
- Districts' awareness of their AMAO targets and performance status;
- States' and districts' AMAO performance results through the 2008–09 school year; and
- Characteristics of districts designated as having repeatedly missed their AMAO targets.

Acknowledgments

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Notes

¹ The term *English Learner* refers to a student whose primary language is a language other than English and whose level of English proficiency is insufficient to support academic learning in a regular classroom in which English is the language of instruction. The *Elementary and Secondary Education Act (ESEA)* uses the term *limited English proficient (LEP)* for such students; however, it has since become more common to use the English Learner term. As such, this brief uses English Learner to refer to students who require additional instructional supports to fully participate in all-English classrooms until they achieve the requisite level of English proficiency.

² While Section 9101(25) of *ESEA* features a broad definition of students who are “limited English proficient,” states have flexibility to set their own criteria and procedures for operationalizing that definition to identify students as ELs. For a discussion of the variation in states’ approaches to EL identification, see the companion brief, *Title III Policy: State of the States*.

³ Section 3114 of *ESEA* restricts states from issuing Title III subgrants of less than \$10,000; however, districts with EL enrollments too small to qualify for a \$10,000 subgrant on their own are permitted to form consortia with other districts in the state to receive a subgrant based on the consortia’s collective EL enrollment.

⁴ For a discussion of other Title III provisions designed to improve education outcomes for ELs, see the companion brief, *Title III Policy: State of the States*.

⁵ The briefs in this series were written for a policy audience but appeal to a range of different stakeholders. Each brief has its own focus and features key contextual information related to that focus. Accordingly, multiple briefs may contain similar information.

⁶ States submit K–12 education data at the state, district, and school levels to the U.S. Department of Education including data on schools, services, staffing, students, and education outcomes.

⁷ The information presented throughout this brief regarding the total numbers and percentages of students identified as ELs in 2007–08 both nationally and in individual states is based on states’ accounts of their Number of All LEP Students in the State in K–12, as reported in their 2007–08 Consolidated State Performance Reports (CSPRs). The accuracy of these state-reported data has not been validated by the U.S. Department of Education or other external parties. The 2007–08 CSPR defines the Number of All LEP Students in the State as the number of “students assessed for English language proficiency (ELP) using an annual State ELP assessment as required under [Title I] Section 1111(b)(7) of *ESEA* in the reporting year and who meet the LEP definition in Section 9101(25).” As noted above, criteria for operationalizing the LEP definition in Section 9101(25) vary from state to state. Moreover, states may employ somewhat different EL identification criteria for different purposes, such as Title I, Title III, and state-funded programs.

⁸ To calculate the proportion of K–12 students identified as ELs both nationally and by state, the study team divided the total number of ELs that states reported in their CSPRs by the states’ projected fall 2007 total K–12 enrollment, using the projected enrollment growth rates published in the *Digest of Education Statistics* on March 19, 2009 (retrieved on March 19, 2009, from http://nces.ed.gov/programs/digest/d08/tables/dt08_033.asp).

⁹ This is based on states’ reports in their 2007–08 Consolidated State Performance Reports (CSPRs) of the top five most commonly spoken languages among their ELs and the number of ELs who speak each language.

¹⁰ *Immigrant students* are defined in *ESEA* as students between the ages of 3 and 21 who were not born in any state in the U.S. and have not been attending one or more U.S. schools for more than 3 full academic years. [*ESEA*, Section 3301(6)(A)(B)(C)].

¹¹ This is based on states’ reports in their 2007–08 Consolidated State Performance Reports (CSPRs) of the number of immigrant students enrolled. To calculate the proportion of immigrant students, the study team divided the number of enrolled immigrant students that states reported in their 2007–08 Consolidated State Performance Reports (CSPRs) by the states’ projected fall 2007 total student enrollment, using the projected enrollment growth rates published in the *Digest of Education Statistics* on March 19, 2009. Retrieved on March 19, 2009 from http://nces.ed.gov/programs/digest/d08/tables/dt08_033.asp.

¹² The number of ELs participating in Title III-funded programs in 2007–08 was generated based on the reports of 50 states and the District of Columbia in the 2007–08 Consolidated State Performance Reports (CSPRs). The number of ELs participating in Title III-funded programs in 2002–03 was generated based on the reports of 48 states in the 2002–03 Title III biennial data collection and 2003–04 reports for Hawaii, Michigan, and the District of Columbia.

¹³ Earlier research has identified a significantly more rapid increase of 45 percent in the nation’s EL population over the previous five-year period between 1997–98 and 2002–03 (National Clearinghouse for English Language Acquisition, 2007). Because Title III was signed into law in 2002, Title III-served counts are not available for the previous five-year period.

¹⁴ Title I regulations also specify parameters regarding which types of ELs must be included in the EL subgroup for the purpose of AYP calculations. In 2006, the Department issued Title I regulations granting states flexibility to (1) exclude the scores of recently arrived ELs who have attended U.S. schools for 12 months or less and (2) include the scores of former ELs for up to 2 years after they no longer meet the State’s definition for ELs. These regulations address concerns that, due to the nature of the EL subgroup which loses ELs who demonstrate English proficiency and gains new ELs with lower levels of English proficiency, it can be difficult for states, districts, and schools to show academic gains for ELs on state content assessments.

See the companion brief *Title III Policy: State of the States* for further discussion of the challenges associated with the revolving nature of the EL subgroup.

¹⁵ See U.S. Department of Education, 2003, for further information on AMAO requirements

¹⁶ Note that according to the Department's Notice of Final Interpretations (U.S. Department of Education, 2008b), states may only separate AMAO targets based on the amount of time ELs have had access to language instruction educational programs: "It would be inconsistent with the statute to set different expectations for different LEP students served by Title III based on their current language proficiency, individual abilities, time in the United States, or any criteria other than time in a language instruction educational program."

¹⁷ States may incorporate methods to ensure that AMAO calculations are valid (i.e., measure what they claim to measure) and reliable (i.e., avoid year-to-year fluctuations unrelated to ELs' English proficiency and achievement levels) to address such issues as random fluctuations in the individual students tested, sampling or measurement error, and students who do not receive instruction for a full academic year.

¹⁸ For example, in response to input from its member states, the WIDA Consortium determined that students' overall composite score on the ACCESS for ELLs (which is currently the most widely used state ELP assessment) would be calculated as 15 percent listening, 15 percent speaking, 35 percent reading, and 35 percent writing, with the comprehension composite determined as 30 percent listening and 70 percent reading (see Abedi, 2007).

¹⁹ Such variation does not imply that states are out of compliance with *ESEA*. Section 1111(b)(1) requires that states establish *challenging* academic standards, but the law does not include specific requirements regarding the standards' level of rigor.

²⁰ In addition, according to the Department's Notice of Final Interpretations (U.S. Department of Education, 2008b), a state is not required to include in its AMAO 3 calculation the scores of Title III-served ELs whose scores are excluded from the state's AYP determination under Title I, Section 200.20(f). This could include the scores of (1) recently arrived ELs who have attended U.S. schools for less than 12 months and (2) ELs who have been enrolled for less than a full academic year.

²¹ The minimum n size refers to the minimum number of students in a particular subgroup that must be met for a local agency to be held accountable for that subgroup's performance.

²² Data regarding 2007–08 state and subgrantee AMAO performance are based on state reports submitted in the 2007–08 Consolidated State Performance Reports (CSPRs). Data for Pennsylvania were unavailable at the time this brief was written because, due to data quality issues, the state was unable to include this information in its 2007–08 CSPP. Accordingly, Pennsylvania and its 100 Title III

subgrantees have been systematically excluded from all analyses of AMAO performance results.

²³ Texas treats individual districts within a consortium as its unit of Title III accountability rather than the consortium as a whole. Therefore, the total number of "subgrantees" that Texas reported in 2007–08 counts stand-alone subgrantee districts as well as individual districts belonging to a Title III-funded consortium, each of which received its own AMAO determinations.

²⁴ According to documents found on the state's Web site, Texas did not report AMAO 1 (making progress in learning English) results in 2007–08 because substantive changes made to the state's assessment could not support comparisons between students' performance on the new assessment and its predecessor. Since AMAO 1 results were not available, Texas's AMAO determinations for the 2007–08 school year were based solely on AMAOs 2 and 3.

²⁵ States report in their Consolidated State Performance Reports (CSPRs) the number of subgrantees that *met* each AMAO. The remaining subgrantees that are not included in these counts either fell short of the AMAO target (i.e., missed the AMAO) or did not receive a determination for that AMAO (e.g., because they did not meet the state's minimum n size [i.e., the minimum number of students in the EL subgroup required for a local agency to be held accountable for that subgroup's performance] or because the state was unable to calculate a particular AMAO).

²⁶ If states reported in their Consolidated State Performance Reports (CSPRs) using a literal interpretation of the directions, districts that missed for more than 2 years consecutively were not included in this number. However, in some cases, states may have reported the number of districts that missed for *at least* 2 consecutive years and, thus, also included districts that missed for 3 or more consecutive years in these counts. The same limitation exists for states' reports of the number of districts that missed AMAOs for 4 consecutive years. Since there is no concrete evidence to the contrary, it is assumed that states reported their figures using a literal interpretation of the directions.

²⁷ As discussed above, some states experienced difficulties establishing and calculating AMAOs in the early years of Title III implementation, and AMAOs have changed over the years in many states. Thus, missing an AMAO in a recent year may not be based on the same criteria as used in prior years.

²⁸ In 2007–08, the District of Columbia reported having five Title III subgrantees, which included the District of Columbia Public School system as well as several charter schools.

²⁹ As a shorthand, the term "designated" in this brief refers to subgrantee districts that missed their Title III AMAOs for at least 2 consecutive years, although the law does not contain such a term.

³⁰ Title I improvement status data were not reported for New York.

³¹ One factor that might explain why small and rural districts were more likely to be designated under Title III than identified for improvement under Title I is the states' use of larger minimum n sizes (i.e., the minimum number of students in the EL subgroup required for a local agency to be held accountable for that subgroup's performance) for Title I than for Title III. That is, districts with small populations may

not have had enough ELs to qualify for a Title I accountability rating for the EL subgroup but did have enough ELs to qualify for a Title III accountability rating.

³² This component is explored in the third brief of this series, *Title III Accountability and District Improvement Efforts: A Closer Look*.

References

- Abedi, J. (Ed.) (2007). *English language proficiency assessment in the nation: Current status and future practice*. Davis: University of California.
- Ballantyne, K.G., Sanderman, A.R., & Levy, J. (2008). *Educating English language learners: Building teacher capacity*. Washington, DC: National Clearinghouse for English Language Acquisition. Retrieved on June 12, 2009, from http://www.ncele.gwu.edu/practice/mainstream_teachers.htm.
- Capps, R., Fix, M., Murray, J., Ost, J., Passel, J., & Herwanto, S. (2005). *The new demography of America's schools: Immigration and the No Child Left Behind Act*. Washington, DC: The Urban Institute.
- Cosentino de Cohen, C., Deterding, H., and Clewell, B. C. (2005). *Who's left behind? Immigrant children in high and low LEP schools*. Washington, DC: The Urban Institute. Retrieved on June 12, 2009, from http://www.urban.org/UploadedPDF/411231_whos_left_behind.pdf
- Francis, D., Rivera, M., Lesaux, N., Kieffer, M., & Rivera, H. (2006). *Practical guidelines for the education of English language learners: Research-based recommendations for serving adolescent newcomers*. (Under cooperative agreement grant S283B050034 for U.S. Department of Education). Portsmouth, NH: RMC Research Corporation, Center on Instruction.
- Fuhrman, S. H. (January 1999). *The New Accountability*. (CPRE Policy Brief Series RB-27). Philadelphia: Consortium for Policy Research in Education, University of Pennsylvania.
- Goertz, M.E., Floden, R.E., & O'Day, J. (1995). *Studies of education reform: Systemic reform, volume I: Findings and conclusions* (CPRE Research Report Series No. RR- 035A). Philadelphia: Consortium for Policy Research in Education.
- Hernandez, D.J., Denton, N.S., & Macartney, S.E. (2007). *Children in immigrant families—the U.S. and 50 states: National origins, language, and early education*. Albany, NY: State University of New York, University of Albany, Child Trends and the Center for Social and Demographic Analysis.
- National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs. (2002). *What languages do ELLs speak?* Retrieved on June 12, 2009, from <http://www.ncele.gwu.edu/expert/faq/05toplans.html>
- National Clearinghouse for English Language Acquisition. (2007). *The growing numbers of limited English proficient students: 1999/96–2005/06*. Washington, DC: Author. Retrieved on July 1, 2009 from http://www.ncele.gwu.edu/files/uploads/4/GrowingLEP_0506.pdf
- National Center for Education Statistics (2007a). *Comparison Between NAEP and State Mathematics Assessment Results: 2003* (NCES 2007-471). By, McLaughlin, D., Bandeira de Mello, V., Blankenship, C., Chaney, K., Hikawa, H., Rojas, D., William, P., and Wolman, M. Washington, DC: U.S. Department of Education.
- National Center for Education Statistics (2007b). *Mapping 2005 state proficiency standards onto the NAEP scales* (NCES 2007-482). Washington, DC: U.S. Department of Education.
- O'Day, J., & Bitter, C. (2003). *Evaluation Study of the Immediate Intervention/Underperforming Schools Program and the High Achieving/Improving Schools Program of the Public Schools Accountability Act of 1999*. Palo Alto, CA: American Institutes for Research.
- Planty, M., Hussar, W., Snyder, T., Kena, G., KewalRamani, A., Kemp, J., Bianco, K., Dinkes, R. (2009). *The condition of education 2009* (NCES 2009-081). Washington, DC: National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education.
- Short, D. J., & Fitzsimmons, S. (2007). *Double the work: Challenges and solutions to acquiring language and academic literacy for adolescent English language learners: Report for the Carnegie Corporation of New York*. Washington, DC: Alliance for Excellent Education. Retrieved on June 30, 2009, from <http://www.carnegie.org/literacy/pdf/DoubletheWork.pdf>.
- U.S. Department of Education, Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students. (2005) *Biennial Report to Congress on the Implementation of the Title III State Formula Grant Program, School Years 2002–04*. Washington, DC: Author.
- U.S. Department of Education, Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students. (2008a) *Biennial Report to Congress on the Implementation of the Title III State Formula Grant Program, School Years 2004–06*. Washington, DC: Author.
- U.S. Department of Education, Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students. (2008b). *Notice of final interpretations of Title III of the Elementary and Secondary Education Act of 1965 (ESEA) as amended by the No Child Left Behind Act of 2001 (NCLB)*. 73 Fed. Reg. 61,828 (to be codified at 48 C.F.R. p[t. 1).

U.S. Department of Education, Office of Planning, Evaluation and Policy Development, Policy and Program Studies Service. (2010). *State and Local Implementation of the No Child Left Behind Act, Volume IX—Accountability Under NCLB: Final Report*. By, Taylor, J., Stecher, B., O'Day, J., Naftel, S., & Carlson-Le Floch, K. Washington, DC: Author.

U.S. Government Accountability Office. (2006). *No Child Left Behind Act: Education's data improvement efforts could strengthen the basis for distributing Title III funds*. Report to Congressional requesters. GAO-07-140. By, Ashby, C.M. Washington, DC: Author.

Zehler, A. M., Adger, C., Coburn, C., Arteagoitia, I., Williams, K., and Jacobson, L. (2008). *Preparing to serve English language learner students: school districts with emerging English language learner communities*. (Issues & Answers Report, REL 2008–No. 049). Washington, DC: U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Regional Educational Laboratory Appalachia. Retrieved on June 30, 2009, from <http://ies.ed.gov/ncee/edlabs>.

Zehr, M.A. (2009, January 8). English-learners pose policy puzzle. Quality Counts 2009. *Education Week*, 28(17), 8–9, 11,13,16–17. Retrieved on June 30, 2009, from <http://www.edweek.org/ew/articles/2009/01/08/17ell.h28.html>

Zehr, M. A. (2003, November 19). English proficiency can take a while in state ESEA plans. *Education Week*, 23(12), 1,16. Retrieved on June 30, 2009, from <http://www.edweek.org/ew/articles/2003/11/19/12nclb.h23.html?tkn=WmZFMtDajrcTCpt7bPUCozR8O55jsN%2BWmRDS&print=1>